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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1188, L.D. 1777, “An Act to Clarify
Tariff Rates for Nonresidential Customers Participating in Net Energy Billing with a
Distributed Generation Resource”

Amend the bill by striking out the title and substituting the following:

**'An Act to Establish Duration and Compensation Limits in the Net Energy Billing
Program'**

Amend the bill by striking out everything after the enacting clause and inserting the
following:

'Sec. 1. 35-A MRSA §3209-A, sub-§1, ¶C, as enacted by PL 2019, c. 478, Pt. A,
§3, is amended to read:

C. "Net energy billing" means a billing and metering practice under which a customer
is billed for supply charges on the basis of the difference between the kilowatt-hours
delivered by a transmission and distribution utility to the customer over a billing period
and the kilowatt-hours delivered by the customer to the transmission and distribution
utility over the billing period, taking into account accumulated unused kilowatt-hour
credits from the previous billing period.

Sec. 2. 35-A MRSA §3209-A, sub-§1, ¶E is enacted to read:

E. "Renewable energy credit" has the same meaning as in section 3210, subsection 2,
paragraph B-2.

Sec. 3. 35-A MRSA §3209-A, sub-§10 is enacted to read:

**10. Applicability to projects of more than 500 kilowatts; limitations for projects
of 500 kilowatts or less.** After November 1, 2025, unless the entity proposing the
development of a distributed generation resource is granted a good-cause exemption due
to external delays in accordance with subsection 7 or 9, a distributed generation resource
may not be used for net energy billing under this section if the nameplate capacity of the
distributed generation resource is more than 500 kilowatts.

1 A. Notwithstanding any provision of this section to the contrary, the number of
2 customers or meters is limited to 10 for a shared financial interest in a distributed
3 generation resource with a nameplate capacity of 500 kilowatts or less participating in
4 net energy billing after November 1, 2025 pursuant to this section.

5 B. A customer participating in net energy billing after November 1, 2025 with a
6 distributed generation resource with a nameplate capacity of 500 kilowatts or less
7 pursuant to this section may not, at one time, have a financial interest in more than 5
8 distributed generation resources that have net energy billing arrangements.

9 **Sec. 4. 35-A MRSA §3209-A, sub-§11** is enacted to read:

10 **11. Net energy billing termination.** Notwithstanding any provision of law to the
11 contrary, a person may not participate or, if participating, may no longer participate in net
12 energy billing under this section after the earlier of:

13 A. Twenty years from the date a net energy billing agreement between the entity
14 proposing the development of the distributed generation resource and the transmission
15 and distribution utility was executed; and

16 B. December 31, 2045.

17 **Sec. 5. 35-A MRSA §3209-A, sub-§12** is enacted to read:

18 **12. Renewable energy credits; sale; retirement.** If a project sponsor, owner of a
19 distributed generation resource or other entity operating a distributed generation resource
20 participating in net energy billing under this section sells the renewable energy credits
21 generated by the distributed generation resource, the renewable energy credits must be sold
22 and retired in the State.

23 **Sec. 6. 35-A MRSA §3209-B, sub-§5, ¶A,** as amended by PL 2021, c. 659, §19,
24 is further amended to read:

25 A. The tariff rate for a customer participating in net energy billing with a distributed
26 generation resource described in this paragraph must equal the standard-offer service
27 supply rate established under section 3212 that is applicable to the customer receiving
28 the credit ~~plus 75% of the effective transmission and distribution rate for the rate class~~
29 ~~that includes the smallest commercial customers of the investor-owned transmission~~
30 ~~and distribution utility.~~ The tariff rate under this paragraph applies to net energy billing
31 with a distributed generation resource:

32 (1) With a nameplate capacity of greater than one megawatt if:

33 (a) The entity developing the distributed generation resource certifies by
34 affidavit with accompanying documentation to the commission that the entity,
35 before September 1, 2022, commenced on-site physical work of a significant
36 nature on the distributed generation resource and the entity has made and will
37 continue to make continuous on-site construction efforts to advance toward
38 completion of the distributed generation resource. For the purpose of this
39 paragraph, continuous on-site construction efforts include, but are not limited
40 to, in the context of a solar facility, the continuous installation of racks or other
41 structures to affix photovoltaic panels, collectors or solar cells to a site. The
42 commission may share information contained in the affidavit submitted in
43 accordance with this paragraph with a transmission and distribution utility, as

necessary, to verify a distributed generation resource's compliance with this section. In administering this subsection, the commission may adopt rules including, but not limited to, requiring the entity that submits a sworn affidavit under this subparagraph to provide updated documentation to the commission after submission of the affidavit; or

(b) The distributed generation resource is collocated with a net energy billing customer that is or net energy billing customers that are subscribed to at least 50% of the facility's output; or

(2) With a nameplate capacity of one megawatt or less.

Sec. 7. 35-A MRSA §3209-B, sub-§5, ¶A-1, as enacted by PL 2021, c. 659, §19, is amended to read:

A-1. The tariff rate for a customer participating in net energy billing under this section with a distributed generation resource not governed by paragraph A must: equal the standard-offer service supply rate established pursuant to section 3212 that was applicable to the rate class of the customer receiving the credit on December 31, 2020.

~~(1) In 2022, equal the standard-offer service rate established pursuant to section 3212 that was applicable to the rate class of the customer receiving the credit on December 31, 2020 plus 75% of the effective transmission and distribution rate that was in effect on December 31, 2020 for the rate class that includes the smallest commercial customers of the investor-owned transmission and distribution utility; and~~

~~(2) Increase by 2.25% on January 1st of each subsequent year, beginning January 1, 2023.~~

Sec. 8. 35-A MRSA §3209-B, sub-§9 is enacted to read:

9. Net energy billing termination. Notwithstanding any provision of law to the contrary, a person may not participate or, if participating, may no longer participate in net energy billing under this section after the earlier of:

A. Twenty years from the date a net energy billing agreement between the entity proposing the development of the distributed generation resource and the transmission and distribution utility was executed; and

B. December 31, 2045.

Sec. 9. 35-A MRSA §3209-B, sub-§10 is enacted to read:

10. Renewable energy credits; sale; retirement. If a project sponsor, owner of a distributed generation resource or other entity operating a distributed generation resource participating in the program sells the renewable energy credits generated by the distributed generation resource, the renewable energy credits must be sold and retired in the State.

Sec. 10. 35-A MRSA §3209-F is enacted to read:

§3209-F. Review of compensation; alteration

1. Review of compensation. Notwithstanding the provisions of sections 3209-A and 3209-B, the commission may periodically review and by rule alter the amount of compensation that a customer with a financial interest in a distributed generation resource

receives as a result of participating in net energy billing under section 3209-A or 3209-B. In making any alteration under this section, the commission shall use a standard or representative distributed generation resource to assess the amount of compensation provided under section 3209-A or 3209-B and shall ensure that any alteration provides a reasonable opportunity for the recovery of reasonable costs, as determined by the commission, and a reasonable rate of return. The commission may not increase any compensation above the lowest amount that would be received under section 3209-B.

2. Alteration. Notwithstanding the provisions of sections 3209-A and 3209-B, the commission may modify by rule the requirements under section 3209-A or 3209-B to the extent necessary to allow the State or a distributed generation resource participating in net energy billing under section 3209-A or 3209-B to qualify for federal grants or subsidies that benefit ratepayers in this State.

3. Rules. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill and changes the title. The amendment changes the limitation on the kilowatt-hour credit net energy billing program to provide that, unless a distributed generation resource has met the timing requirements established for participation in the program, after November 1, 2025, only distributed generation resources with a nameplate capacity of 500 kilowatts or less may be used for net energy billing. It also changes the definition of "net energy billing" in the Maine Revised Statutes, Title 35-A, section 3209-A, subsection 1, paragraph C to provide that kilowatt-hour credits may be credited only to a customer's electricity supply charges.

The amendment also amends the laws governing the tariff rate and kilowatt-hour credit net energy billing programs to prohibit participation 20 years from the date a net energy billing agreement between the entity proposing the development of the distributed generation resource and the transmission and distribution utility was executed or after December 31, 2045, whichever occurs earlier. The amendment also requires that if a project sponsor, owner of a distributed generation resource or other entity operating a distributed generation resource with a net energy billing arrangement sells renewable energy credits generated by the distributed generation resource, the renewable energy credits must be sold and retired in the State.

The amendment clarifies that the limitations on the number of shared financial interest customers or meters and the number of distributed generation resources that have net energy billing arrangements in which a customer may have a financial interest apply to distributed generation resources with a nameplate capacity of 500 kilowatts or less after November 1, 2025.

The amendment also allows the Public Utilities Commission to periodically review and by rule alter the amount of compensation that a customer with a financial interest in a

distributed generation resource may receive under the kilowatt-hour credit net energy
billing and commercial and institutional net energy billing programs.

FISCAL NOTE REQUIRED

(See attached)