



Committee on Energy, Utilities and Technology
% Legislative Information Office
100 State House Station
Augusta, ME 04333

May 13, 2025

Re: Public Hearing, LD 1936, An Act to Provide Greater Equity in and Reduce Costs Related to the State's Net Energy Billing Program

Dear Senator Lawrence, Representative Sachs and Members of the Committee:

Thank you for the opportunity to share testimony in opposition to LD 1936, An Act to Provide Greater Equity in and Reduce Costs Related to the State's Net Energy Billing Program, on behalf of the Maine Renewable Energy Association (MREA). MREA is a not-for-profit association of renewable energy producers, suppliers of goods and services to those producers, and other supporters of the industry. Our member companies include wind, solar, hydropower, biomass, and tidal energy generators and developers of such projects, as well as companies that provide services to those producers, such as environmental engineers, electricians, and general contractors.

LD 1936 proposes a number of changes to the net energy billing (NEB) program, each of which would cause deleterious effects to the program and collectively would make the program all but obsolete. LD 1936 would harm investments made and relied upon in good faith by Maine homeowners, businesses, and institutions; shrink Maine's growing solar industry and likely cause some businesses to collapse; and make retroactive policy changes that will chill future investments in Maine's clean energy transition.

LD 1936 would make the following specific changes to the program:

- (1) **With some exceptions, a person, business, or institution may not participate in NEB after the expiration of their NEB agreement.** Exceptions include consumer-owned projects sized less than one megawatt and single customer-owned projects, so long as the project is serving that customer's load only. *See Sections 3, 7, and 8.* The language "a person may not participate" raises significant questions for the 110,000 current program participants, as the bill suggests there will be no opportunity to receive compensation for any energy generated beyond their existing contract.

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- (2) **If a community solar customer terminates their participation in a NEB program agreement, the utilities must replace that customer by enrolling a customer receiving low-income assistance.** See Sec. 4. While MREA agrees that participation in NEB by low-income customers must increase (and has worked on legislation to improve participation), and appreciates that the details would be outlined in rulemaking, we're skeptical of how it could be put into practice and question the ability to direct a private entity to sell to a specified customer.
- (3) **Requires any project between one and two megawatts that received a good cause exemption from the Maine Public Utilities Commission (Commission) to reach commercial operation by the end of 2025.** See Sec. 5. A great deal of project construction and interconnection elements are outside of the direct control of project developers. As such, setting a "cut-off" on a specified date may result in unfinished projects and, in turn, lost investment.
- (4) **With the exception of consumer-owned projects sized less than one megawatt and single customer-owned projects (so long as the project is serving that customer's load only), no new projects may use NEB after October 1, 2025.** See Sections 6, 7, and 8. This element of the bill in particular, by grossly shrinking the types of projects eligible for the NEB program, would have a deleterious impact on the Maine businesses and jobs that have been created to support Maine's clean energy transition. Furthermore, a great deal of project construction and interconnection elements are outside of the direct control of project developers. As such, setting a "cut-off" on a specified date may result in unfinished projects and, in turn, lost investment.
- (5) **Directs the Commission to set new "just and reasonable" rates for projects owned by nonresidents.** See Sections 9 and 13. Not only does this raise constitutional questions and signal that Maine does not want outside investment that is absolutely essential to meeting the high capital demands of the clean energy transition, it is a retroactive change that offers little-to-no guidance on what constitutes "just and reasonable" and by allowing the Commission to make rate changes at any time represents an unacceptable risk for project owners and offtakers alike.
- (6) **Shifts the tariff rate for resources owned by nonresident businesses to 9.5 cents with a 2.25% escalator.** Constitutional questions aside, this represents a 30-50% reduction in value. It is unreasonable to think that any project could survive such a massive cut. This change would not only send nearly every project owner to the Commission to request a rate change (which is also contemplated in the bill), but would decimate existing contracts and force renegotiation that would ultimately result in offtakers being dropped and potential bankruptcy for the project owner should they not be able to cover their existing costs. If project owners are put in the red, lenders will be unable to cover their loans because they will not be able to sell the assets because of the state's untenable, unpredictable, and regularly changing regulatory environment.

Loan recovery may then shift to lawsuits, putting the state at risk for covering costs of litigation and damages.

Finally, though not exclusively, the Maine Legislature has rolled back this program three times. Each time, it has specifically avoided retroactive changes. Regulatory uncertainty in Maine has already caused some MREA members to cancel projects and new investments in the state. Others have said in no uncertain terms that retroactive changes will cause them to spend future investment dollars elsewhere. This capital is essential to achieving Maine's clean energy goals and sustaining and growing Maine's renewable energy industry.

For these reasons and more, MREA urges the Committee to vote 'Ought Not to Pass' on LD 1936.

Sincerely,

A handwritten signature in cursive script, reading "Eliza Donoghue".

Eliza Donoghue, Esq.
Executive Director