

# **SOLAR ENERGY ASSOCIATION OF MAINE**

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## **Testimony in Opposition to LD 1153**

### **An Act to Allow Municipalities to Tax Personal**

### **Solar Energy Equipment Under 5 Megawatts**

**Steven Weems, Board Member, Solar Energy Association of Maine**

**President, Dirigo Community Solar Group**

**To the Joint Standing Committee on Taxation**

April 5, 2023

Senator Grohoski, Representative Perry, and other members of the Joint Standing Committee on Taxation: my name is Steve Weems, a Board Member of the Solar Energy Association of Maine; also President of Dirigo Community Solar Group, a nonprofit association of 14 small, member-owned community solar farms. We are in respectful opposition to LD 1153, which would eliminate an important incentive for small-scale solar energy development. This tax exemption is an especially desirable, limited renewable energy incentive for small projects because it is funded through the State General Fund, not electricity rates. We know the sponsor as a strong supporter of clean energy, yet conclude in this case that LD 1153 is both unwarranted and unnecessary, on both policy and practical grounds.

It is important to be precise about the applicability of the existing solar personal property tax exemption that would be eliminated by this bill. The current tax exemption is limited to equipment where all the energy is used on the site where the property is located, or the customers receive a utility bill credit for the energy generated on their utility accounts. This provision limits the application of the existing tax exemption to net energy billing (NEB) projects with designated retail customers, up to 5 megawatts (MW) in capacity. The existing tax exemption helps a specific subset of utility customers who have taken direct action to reduce their contribution to climate disruption by owning a share of, or subscribing to, a distributed generation NEB project. These electricity customers deserve our collective gratitude, and support via the existing tax exemption.

These statutory definitional requirements put a lid on the use of the existing exemption. It appears the future applicability of this exemption is likely to be limited further, by revising the NEB program in ways that would eliminate many future projects from eligibility that currently would qualify for this tax exemption. (Please see later commentary in this testimony about this.) We think this validates the wisdom of the criteria currently in statute which must be met to qualify a project for tax exemption.

The existing tax exemption is a vitally important incentive for customers of the smallest distributed generation projects to which it applies. Specifically, it encourages utility customers to invest their own capital in eligible solar projects, or sign up as subscribers to a project owned by a third party. (Wind projects typically are too large to qualify for this tax exemption.) This is the only way nonprofits (e.g., municipalities, schools, churches) can take advantage of the Federal renewable energy equipment tax credit. These smaller projects are the foundation of the dynamic, two-way generation/use grid of the future. Over time, we are going to rely more fully on distributed electrical infrastructure. These small projects also have long economic payback periods, which justified the tax exemption in the first place. From personal experience and that of the members of the clean energy utility customers I speak for today, I can vouch for the importance of this tax exemption to facilitate investment in small projects.

A common criticism of clean energy initiatives (and even energy efficiency measures) is that key incentives are often funded through inclusion in utility electricity rates. This criticism is one-dimensional when it is based solely on lost utility revenue, and ignores offsetting benefits that (i) reduce the net bill impact, and (ii) benefit Maine people in ways that do not show up on the bill (e.g., reduced greenhouse gas emissions and other pollutants). Nevertheless, minimizing ratepayer bill impact is a legitimate goal, especially when natural gas commodity pricing is causing large increases in the cost of energy. The goal of minimizing ratepayer bill impact is supported by funding incentives for the development of clean energy, especially including distributed generation projects, with State General Fund revenues. This is what the limited tax exemption that would be eliminated by LD 1153 does – it funds an important clean energy incentive and spreads the burden over all the general revenue sources of the State. In this case, we think this is sound fiscal policy which should be continued.

This tax exemption generates plus revenues for municipalities, through the Maine constitutional provision for at least 50% reimbursement for each municipality where an exempt project is located. Since these projects create new valuation when they become eligible for the exemption, this means the municipality gets additional tax revenues, along with other benefits of hosting such projects. From a municipal perspective, this is an economic development incentive creating new tax revenues. We think this was a consideration when the legislature enacted this limited tax exemption, which is just as valid today. Note this particular tax exemption is limited to small projects (less than 5MW), and only in circumstances where all the energy of the project goes to utility customers who receive a net energy billing utility bill credit.

This specific existing limitation on the type and size of projects to which the tax exemption under consideration applies is critically important. It means the future application of this tax exemption effectively is limited to smaller DG projects, and only those with named off-takers. This is the net energy billing (NEB) program, a subset of the more general term distributed generation (DG). We think other changes (see below) are likely to reduce the applicability of the current tax exemption, without eliminating the crucially important economic incentive of the exemption for the very smallest NEB projects.

The future scope and character of distributed generation (including the NEB program) is under active consideration. In 2021 the Legislature established a major study initiative to develop a “successor NEB program,” establishing a DG Stakeholder Group for policy oversight. It met something like 18 times over two years. The Governor’s Energy Office (GEO) staffed this work, the Public Utilities Commission (PUC) participated, and two first-class consultants did extensive economic analysis. In 2022 the Legislature imposed additional limits on the scope of DG development and reduced the off-taker billing credit for Commercial and Institutional utility customers (known as the C&I tariff). The clear intent of these activities was to limit the future scope of the NEB program, while retaining the many benefits of distributed generation defined more broadly.

The DG Stakeholder Group economic consultants looked at the total pipeline of NEB projects (up to 5 MW), segregated it by size, did extensive economic analysis of total benefits and costs, and looked specifically at ratepayer impacts. It is widely acknowledged that the pipeline figures overestimate what will actually be built, for

multiple reasons. Nonetheless it is a baseline. Roughly three-quarters of planned projects are in the 2-5 MW range; over 90% are in the 1-5 MW range (see below).

Smallest projects (up to 1 MW)	120 MW	7%
Medium tier projects (1-2 MW)	340 MW	19%
Larger NEB projects (2-5 MW)	<u>1,290 MW</u>	74%
Total NEB pipeline	1,750 MW	100%

The DG Stakeholder Group's recommended a successor program for projects in the 1-5 MW range that would reduce the utility electric bill rate for all Maine regulated utility ratepayers. It would accomplish this by restructuring the successor program to allocate several additional monetary values to the utilities, in a competitive procurement, which would acquire wholesale energy from these projects. Of critical importance to today's bill, this means most projects in this size range would no longer have customers who receive a utility bill credit. Therefore these projects would be ineligible for the tax exemption presently in force. These projects would be taken out of the NEB program, with its designated off-takers. Importantly, this would leave the smallest projects (up to either 1 or 2 MW, depending on where the size limit ultimately is set by statute), which need the tax exemption the most, as the only solar projects eligible for the existing tax exemption.

The bottom line is at least 75%, and possibly over 90%, of future projects (valuation) currently eligible for this property tax exemption would become ineligible for the exemption. Only the smallest future projects would be left in the NEB program and be eligible for the tax exemption. This would be a far more surgical, beneficial change than eliminating the tax exemption for all future solar projects as proposed in LD 1153.

Admittedly the foregoing scenario is still in proposal form, but it is one consistent with the general feeling the NEB program has gotten too big and the incentives (paid by other ratepayers) are stronger than they need to be. It seems highly that if LD 1153 is set aside, the definition of future projects eligible for the tax exemption (i.e., those with a utility customer or customers that receive a utility bill credit for the energy generated by the solar equipment) will shrink dramatically.

The foregoing discussion is based on the premise that LD 1153 would apply to future projects only, and would not eliminate this tax exemption for operational projects, or those currently under development that become operational before the statutory deadline of December 31, 2024. (Previous legislation set this operational deadline for 2-5 MW NEB projects in the pipeline.) Eliminating the tax exemption for existing projects would be unfair and possibly unprecedented.

With these factors in mind, and considering the positive policy reasons for retaining the tax exemption for the smallest distributed generation projects, we think this is a case where the best course is to do nothing.

Thank you for your service and consideration of our perspective.

Attachment: Total Pipeline of NEB projects, November, 2022

Figure 7

**Net energy billing capacity in the pipeline, by project size**  
November 2022

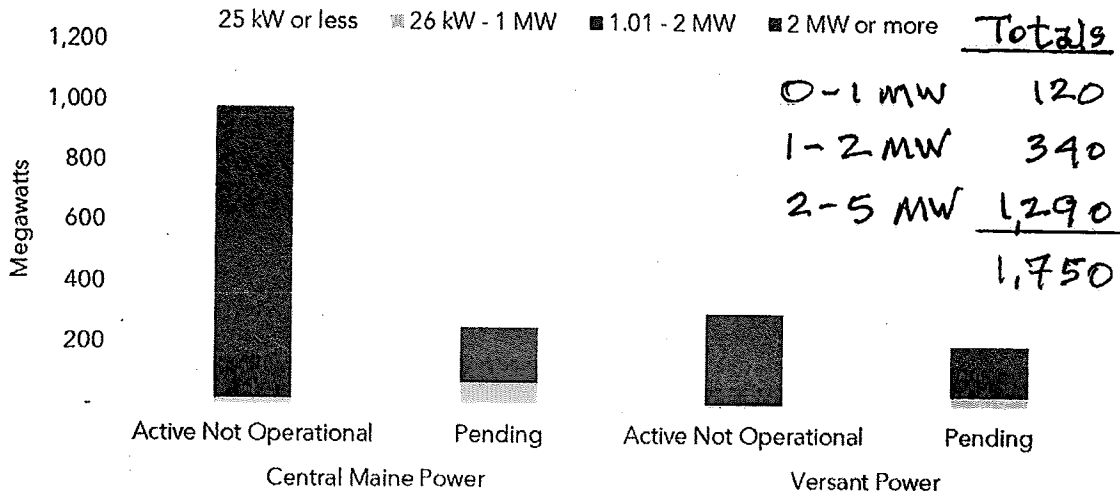
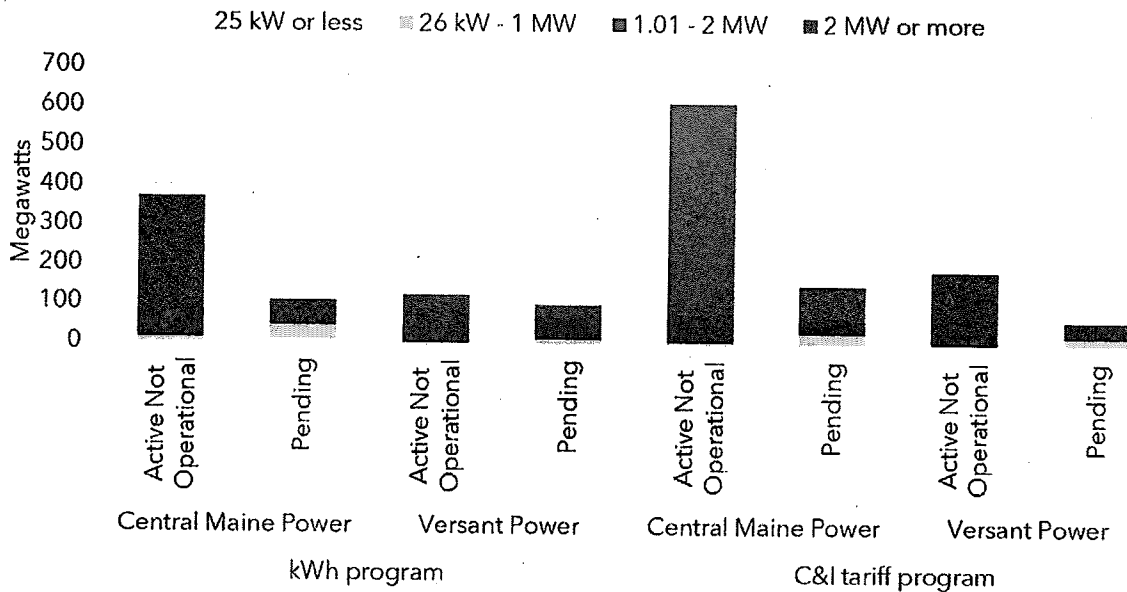


Figure 8

**Net energy billing capacity in the pipeline, by project size, status, and program**  
November 2022



Based on the average offtaker capacity illustrated in Figure 5 and Figure 6, as well as the potential net energy billing capacity in the program pipeline illustrated in Figure 8, an estimated additional 82,000 –