

LD 32, AN ACT to Repeal the Laws Regarding Net Energy Billing
LD 257, AN ACT to Eliminate the Practice of Net Energy Billing
LD 450, An Act to Lower Electricity Costs by Repealing the Laws
Governing Net Energy Billing

Senator Lawrence
Representative Sachs
Members of the Energy, Utilities and Technology Committee

My name is Debra Hart, and I am a resident of Manchester, Maine. I represent the Dirigo Electric Cooperative Companies (“Consumer-Owned Utilities” or “COUs”), which include Van Buren Light & Power, Houlton Water Company, Eastern Maine Electric Cooperative, Kennebunk Light & Power District, Madison Electric Works, Brunswick Landing Electric Utility, Fox Island Electric Cooperative, and Isle Au Haut Electric Power Co. For the reasons set forth herein, the COUs testify in support of LD 32, LD 257, and LD 450.

LD 32, LD 257, and LD 450 propose to repeal 35-A M.R.S.A. §3209-A, which sets forth the COU requirements for Net Energy Billing (“NEB”). The COUs support cost-effective renewable energy development that equitably benefits all customers. The COUs recognize Maine’s concerns about climate change and understand that NEB encourages the development of small-scale renewable energy resources. However, COUs ask the Maine Legislature to recognize the fixed-cost dilemma utilities face with rising participation in NEB. The COUs oppose NEB as currently set forth in Maine law because it benefits solar developers and NEB customers at the expense of non-NEB ratepayers. Maine’s renewable energy goals should not be achieved in a manner that financially benefits specific customers to the detriment of others.

NEB Customers Shift Costs to Non-NEB Customers

Utilities have a high fixed cost to construct, operate, and maintain the transmission and distribution system, from clearing rights-of-ways, providing metering systems, and installing transformers, cable, substations, and other equipment necessary to provide reliable electricity to customers 24 hours a day in all types of weather to providing excellent customer service and investing in new technology. COUs traditionally collect fixed costs on a kWh basis.

NEB customers offset kWh received from the utility with kWh the customer generates and delivers to the utility. Maine's NEB laws require utilities to offset all kWh usage charges, including kWh delivery charges designed to recover the utilities' fixed costs. Because NEB customers' bills typically net zero or near zero kWh, NEB customers do not pay an adequate share of the utilities' fixed costs.

NEB customers rely on utilities to provide and operate a reliable, well-maintained grid, without which it would be impossible to interconnect their rooftop solar arrays. NEB requires interconnection with and access to the grid to deliver self-generated electricity to the grid, store electricity on the grid, and receive electricity from the grid. NEB customers effectively use the utility grid like a battery to store their unused electricity as a credit against future use.

Arguably, NEB customers should pay for grid transaction services like other utility participants who receive, deliver, and export or "wheel" energy across infrastructure they do not own. Providing the infrastructure and services to serve numerous self-generators is costly. However, Maine law was enacted to prevent public utilities from establishing higher rates or charges for NEB customers.¹ Charging customers for using the utility system according to how they use it should not be considered discriminatory against NEB customers but an issue of fairness and equity to all utility customers.

As more customers take advantage of NEB and fewer fixed costs are paid into the system, utilities are required to raise rates to recover the system's fixed costs. While some costs are recovered through minimum charges paid by all customers, significant rate increases are on delivery charges that NEB customers can offset, leaving non-NEB customers to pay. Non-NEB ratepayers receiving service from COUs and investor-owned utilities pay utility fixed costs for NEB customers – not shareholders, investors, or other third parties. Non-NEB customers who pay NEB customers' fixed costs include low-income and aging populations, many of whom live on fixed incomes and government assistance and either cannot afford rooftop solar installations or do not own the place they call home. Initiatives such as "Solar for All" attempt to solve the negative impact of NEB on low and fixed-income customers. However, it

¹ 35-A M.R.S.A. §702(2) Solar energy. No public utility providing electric or gas service may consider the use of solar energy by a customer as a basis for establishing higher rates or charges for energy or service sold to the customer.

expounds the problem for utilities by shifting more fixed costs to non-NEB customers, resulting in higher electric rates burdening Maine's citizens.

NEB Conflicts with Principles of Maine Law that Protect Ratepayers

Public utilities are required by Maine law to charge just and reasonable rates for services² regardless of customer-owned infrastructure. Maine law prohibits utilities from charging or collecting less compensation for services rendered in consideration of the person furnishing a part of the facilities incident to the service.³ It is also unlawful for public utilities to give any undue or unreasonable preference, advantage, or disadvantage to a particular person.⁴ These laws were enacted to prevent utilities from discriminating between customers, charging some customers more in order to charge other customers less – precisely what NEB mandates utilities do.

When NEB customers' kWh delivery and receipt net out and that cancellation applies to transmission & distribution services the NEB customer did not provide, the NEB customer receives transmission and delivery services for free in direct violation of 35-A M.R.S.A. § 703(1), (2), which prohibits utility customers from receiving free or special rates at less than the rate named in the utility's tariff schedules.⁵ Free and special rates are allowed under certain circumstances – NEB is not enumerated in § 703 and should not be one of those exceptions.

² 35-A M.R.S.A. §301(2) "The rate, toll or charge, or any joint rate made, exacted, demanded or collected by any public utility for production, transmission, delivery or furnishing of electricity, gas, heat or water; for communications service; or for transportation of persons or property within this State or for any service rendered or to be rendered in connection with any public utility, shall be just and reasonable."

³ 35-A M.R.S.A. §701(1) No public utility may demand, charge, collect or receive from any person less compensation for any service rendered or to be rendered by the public utility in consideration of the person furnishing a part of the facilities incident to the service.

⁴ 35-A M.R.S.A. §702(1) Unjust discrimination. It is unlawful for a public utility to give any undue or unreasonable preference, advantage, prejudice or disadvantage to a particular person.

⁵ 35-A § M.R.S.A. §703(1), (2). Free or special rates prohibited. No person may knowingly solicit, accept or receive any rebate, discount or discrimination in respect to any service rendered, or to be rendered by a public utility, or for any related service where the service is rendered free or at a rate less than named in the schedules in force, or where a service or advantage is received other than is specified.

The COUs request that the Maine Legislature uphold the law and restore equity to utility rates by making NEB an “energy only” offset.

The COUs Support Self-Generation with an “Energy-Only” Offset

The COUs agree that they should pay for the energy and services they receive from NEB customers. The COUs also support their customers’ desire to self-generate. A cost-based, nonprofit operation of a utility provides the flexibility to recover the utility’s fixed costs while being responsive to customers’ needs and desires for modern energy supply options and reducing reliance on fossil fuels. The COUs balance the competing interests of customers by applying a cost-based standard aimed at equitably providing reliable and affordable service to all customers.

The COUs recognize Maine’s interest in facilitating the use of small-scale renewable generation that serves individual customers’ needs. In the Maine Public Utilities Commission’s 1998 order adopting rules for NEB following the restructuring of the utility industry, the Commission decided “not limit net billing to the generation portion of the electricity bills, but [to] apply it to T&D charges only to the extent they are usage sensitive.”⁶ However, the Commission also stated, “This approach mirrors the results of a customer who invests in energy efficiency. Customers may use their own generation to offset the total price of electricity *but must pay any fixed charges designed to cover the costs of T&D system to which the customer remains connected.*”⁷

In its order, the Commission addressed CMP’s concern that “the Commission would adopt a rule that potentially allows net billing customers to benefit at the expense of other ratepayers.”⁸ The Commission opined that NEB costs have been “extremely small” and the cap on net billing load and forfeiture of unused credits (which no longer applies) should address CMP’s concerns. The Commission balanced “net billing as a means to encourage the development and use of small-scale renewable facilities” with “the resulting costs to utilities

⁶ *Order Adopting Rule and Statement of Factual and Policy Analysis, Customer Net Energy Billing (Chapter 313)*, State of Maine, Public Utilities Commission, Docket No. 98-621, December 10, 1998, 5.

⁷ *Id.*, (emphasis added).

⁸ *Id.* at 6.

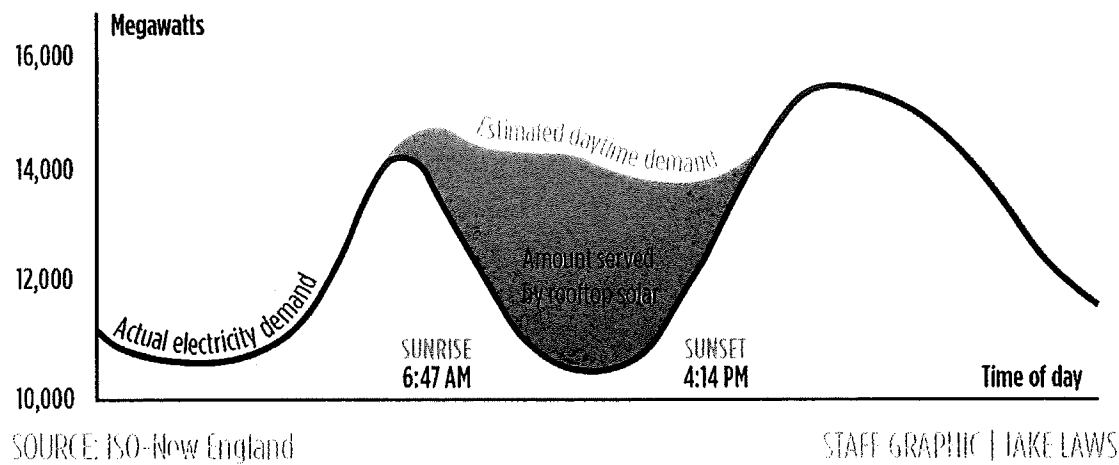
and their ratepayers...”⁹ There is now an imbalance between NEB and costs to ratepayers, which is resulting in proposed bills LD 32, LD 257, and LD 450.

The COUs advocate for a new balance between NEB and non-NEB customers based on the value of the electricity NEB customers provide to the utilities without compensation for transmission & distribution services that they do not provide. In the article “Solar Power is Cutting Daytime Electricity Demand on New England’s Grid,” Stephen Singer unknowingly demonstrated the utility issue with NEB.¹⁰ Singer’s graph below shows daytime demand being met by rooftop solar, followed by a peak electric demand at about 6:00 p.m. Singer accurately conveyed that rooftop solar does not generate electricity during peak periods, which are typically the most expensive periods for grid electricity and form the basis for utility capital infrastructure investments.

Figure 1: Graphic attributed to Stephen Signer’s article, “Solar Power is Cutting Daytime Electricity Demand on New England’s Grid.”

How rooftop solar reduces demand on New England’s electric grid

Demand on the grid was lower during the day than overnight for more than 100 days in 2024. That means rooftop solar panels supplied most of the power needed in the region. Here’s what electricity demand looked like on one of those days, Nov. 25.



⁹ *Id.* at 8.

¹⁰ Singer, Stephen. “Solar Power is Cutting Daytime Electricity Demand on New England’s Grid.” *Portland Press Herald*, January 3, 2025. Available at <https://www.pressherald.com/2025/01/03/solar-power-is-cutting-daytime-electricity-demand-on-new-englands-grid/> last visited January 31, 2025.

Utilities must construct, operate, and maintain a system to meet peak demand, which continues to increase even as net kWh sales decrease due to NEB. Solar generation midday does not typically offset peak demand or capacity charges or defray the utilities' costs of meeting that demand.

Utilities should compensate NEB customers for the electricity they deliver, which utilities would have had to purchase from another source. However, NEB customers should be paying an equitable share of the utility's fixed costs of the system they connect to and use for NEB benefits.

Confronting the NEB Subsidy

Utilities asking customers to pay for the services they receive should not be controversial. However, NEB is contentious because rooftop solar is not a feasible investment for most individuals without shifting costs to non-NEB customers. NEB customers invest in rooftop solar primarily for monetary reasons, as evidenced by the advertising efforts of rooftop solar companies that focus on financial incentives¹¹ and the testimony submitted concerning LD 32, LD 257, and LD 450. NEB customers testify about the impact on their personal finances in contrast to utilities enriching themselves and shareholders. Many NEB customers are unaware of how their rooftop solar panels shift fixed utility costs to their neighbors, but the solar industry depends on it.

According to the Coalition for Community Solar Access testimony presented to the Committee on Energy, Utilities, and Technology on April 13, 2023, ending NEB "would create a severe chilling effect on the renewable energy sector in Maine."¹² The renewable energy sector in Maine is a private, for-profit sector that relies on the ratepayer cost shift to get customers. Utilities' non-NEB customers should not be subsidizing costs to make private for-profit companies' products economically viable.

¹¹ See *Maine Solar Rebates and Incentives: 2024 Guide*, available at <https://www.energysage.com/local-data/solar-rebates-incentives/me/>.

¹² Testimony in Opposition to LD 1347, Coalition for Community Solar Access, April 13, 2023, available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://legislature.maine.gov/bills/getTestimonyDoc.asp?id=171246>, last visited February 3, 2025.

Yet, using utility ratepayers to fund a private industry appears to be a commonly accepted arrangement in the name of jobs and climate change. The time has come for the Maine Legislature to reevaluate whether ratepayers' interest in utility affordability outweighs the government's interest in promoting small-scale renewable facilities. There is an undeniable cost shift under NEB that cannot be blamed on fossil fuel companies (the NEB cost shift is occurring primarily on the transmission & delivery side of the utility business and not the deregulated electricity supply side). Other states, including California, Idaho, and Nevada, have changed their NEB laws to address the cost shifting. The COUs request that Maine take a similar approach.

Promoting Renewable Energy and Affordability

The COUs are not anti-renewable energy. The COUs have used their limited resources to develop cost-effective renewable projects that benefit all their customers. The COUs request that Maine refocus its efforts to reach 100% renewable energy on utility-scale solar projects interconnected under the Federal Public Utility Regulatory Policies Act of 1978 (PURPA), which accomplishes climate change goals at a much more affordable cost to utility customers than customer-owned NEB systems.

One of Maine's smallest COUs, Fox Islands Electric Cooperative (FIEC), is a leader in island renewable energy development. Pursuant to 35-A §3771, FIEC organized Fox Islands Wind, LLC (FIW), a 4.5 MW wind farm on Vinalhaven Island. FIW provides an average of 60% of FIEC's power requirements. The USDA Rural Utilities Service recently awarded FIW a \$3.625 million grant and a \$10.875 million loan at 2% interest, pursuant to the Inflation Reduction Act's New ERA program, to repower FIW's wind turbines and install a 1 MW solar array. The New ERA projects are expected to achieve a 99.8% greenhouse gas-free energy supply for FIEC's customers beginning in 2031. FIEC is also developing a 5 MW battery energy storage system to integrate and efficiently use its intermittent renewable energy.

However, FIEC is struggling to recover fixed system costs as its peak demand increases while revenue decreases due to NEB. FIEC currently provides NEB benefits to 63 customers across 74 metered accounts. FIEC serves 2,102 meters; NEB customers make up 3.5% of FIEC's customers. In 2024, FIEC delivered 304,564 kW to NEB customers, which was offset by their NEB-

related distribution generation credits. Based on FIEC's Residential Delivery Rate of \$0.13708/kWh, this resulted in FIEC not collecting \$41,750 of services that FIEC provided – a significant amount for a small, nonprofit utility. The uncollected amount represents 21% of FIEC's margin (the annual difference between operating revenue and cost of service). This \$41,750 loss in revenue necessitated a rate increase, which increases monthly bills for FIEC's middle and lower-income customers who cannot afford NEB systems, even with State and Federal rebates and tax deductions.

When rates to cover the fixed costs of operating and maintaining the existing system become too high, COUs like FIEC lose their ability to raise rates further to support new renewable energy infrastructure financing. As a result, COUs must sacrifice renewable energy projects that offset demand costs and greenhouse gas for all customers to pay for NEB benefits for customers who can afford their own rooftop system.

As much as COUs would like NEB to be a “win, win, win” for all parties—it benefits some customers to the detriment of others. The COUs work to act in the best interests of all their customers. Without shareholders and profit margins, the economic and social interests of its customers are the COUs only consideration. For this reason, the COUs support LD 32, LD 257, and LD 450, followed by the adoption of an energy-only NEB law to preserve NEB customers' interconnection and access to the grid while promoting energy affordability for all.

Changes on a Forward-Basis

The Maine Legislature should recognize that any changes to NEB would be on a forward-going basis and would not affect current NEB arrangements. The COUs do not advocate any changes to NEB benefits for current customers, which will be grandfathered. As discussed herein, new distributed generation could be interconnected on an energy-only basis, providing equitable compensation to NEB customers for the value of the energy they provide.

Thank you for your time and attention. I'd be happy to answer any questions or provide additional information at your request.