

## An Act To Establish a Wood-fired Combined Heat and Power Program

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 5 MRSA §1766-A**, as amended by PL 2009, c. 329, Pt. A, §1, is further amended to read:

**§1766-A. Electricity purchases for state buildings**

No later than January 1, 2010, all electricity consumed in state-owned buildings must be supplied by renewable resources. For purposes of this section, "renewable resource" has the same meaning as in Title 35-A, section 3210, subsection 2, paragraph C. In purchasing electricity for state-owned buildings, the State may give preference to electricity generated by community-based renewable energy projects, as defined in Title 35-A, section 3602, subsection 1 and electricity generated by combined heat and power projects, as defined in Title 35-A, section 3622, subsection 1.

**Sec. 2. 35-A MRSA §3212, sub-§4-E** is enacted to read:

**4-E. Combined heat and power energy.** The commission may incorporate energy generated by combined heat and power projects as defined in section 3622, subsection 1 into the supply of standard-offer service. The commission shall encourage entities based in this State that are not otherwise either a standard-offer service provider or its affiliate to participate in supplying energy from combined heat and power projects pursuant to this subsection.

**Sec. 3. 35-A MRSA c. 36-A** is enacted to read:

### CHAPTER 36-A

### WOOD-FIRED COMBINED HEAT AND POWER ACT

**§3621. Short title**

This chapter may be known and cited as "the Wood-fired Combined Heat and Power Act."

**§3622. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Combined heat and power project.** "Combined heat and power project" means a facility that uses wood fuel to generate electric heat and power that is used for industrial or space heating purposes.

**2. Net generating capacity.** "Net generating capacity" means the electric output of an electricity generating facility delivered to the transmission and distribution utility system. "Net generating capacity" does not include any energy consumed by the generator to operate the electricity generating facility or any energy consumed for facility lighting, power and auxiliary facilities.

**3. Program participant.** "Program participant" means a combined heat and power project that is participating in the combined heat and power program established in section 3623.

**4. Wood fuel.** "Wood fuel" means ~~wood residue from wood product manufacturing or other biomass derived from trees and other woody plants that were grown or processed domestically.~~ biomass derived from:

A. Forest products manufacturing residuals including but not limited to mill chips, sawdust, bark, shavings and fines;

B. Harvest residues, including trees or portions of harvested trees that are too small or of too poor quality to be utilized for wood products; or

C. Downed trees from extreme weather events and natural disasters, non-hazardous landscape or right-of-way trimmings and plant material removed for purposes of invasive species control.

### **§3623. Combined heat and power program**

**1. Program established.** The combined heat and power program, referred to in this chapter as "the program," is established to encourage the development in the State of combined heat and power projects that will promote the climate action plan developed in accordance with Title 38, section 577, subsection 1. The program is administered by the commission.

**2. Program scope; limits on net generating capacity.** The commission shall limit participation in the program in accordance with this subsection.

A. The net generating capacity of a program participant may not be less than 3 megawatts or more than 10 megawatts.

B. The total net generating capacity of all program participants combined may not exceed ~~20~~ 50 megawatts.

The commission may modify the amount of total net generating capacity stipulated under this paragraph based on program experience.

**3. Program eligibility criteria.** To be eligible to participate in the program, a combined heat and power project must:

A. Be connected to the electric grid of this State;

B. Have an in-service date after [date]; and

C. Satisfy the limits on net generating capacity established in subsection 2, paragraph A.;

D. Be installed at an "eligible facility" that has an in-service date after [date] or be installed at an "eligible facility" to replace an energy source that is less efficient per unit of energy produced; and

E. Not be a participant in net energy billing under section 3209-A or 3209-B.

The commission shall prescribe an application form or procedure that must be used to apply to the program under this chapter, which must include any information that the commission determines necessary for the purpose of administering the program. The commission shall, within 30 days of receipt of a completed application, determine whether the combined heat and power project qualifies for participation in the program and respond in writing.

## **§3624. Long-term contracts for combined heat and power**

**1. Investor-owned transmission and distribution utilities; required participation.** Notwithstanding section 3204, the commission may direct an investor-owned transmission and distribution utility to enter into long-term contracts with one or more program participants located within the service territory of the utility for energy, capacity resources or renewable energy credits. The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers and only in accordance with this section. An investor-owned transmission and distribution utility shall sell energy, capacity resources or renewable energy credits purchased pursuant to this subsection into the wholesale electricity market or take other action relative to such energy, capacity resources or renewable energy credits as directed by the commission. **If at the close of the competitive bidding process the commission determines that no proposal meets the requirements of the solicitation or that an approval is not in the public interest, the commission may reject all proposals and may open a new competitive bidding process.**

**2. Consumer-owned transmission and distribution utilities; voluntary participation.** A consumer-owned transmission and distribution utility may, at the option of the utility, enter into long-term contracts with one or more program participants located within the service territory of the utility for energy, capacity resources or renewable energy credits. Consumer-owned transmission and distribution utilities may enter into contracts under this subsection only as agents for their customers and only in accordance with this section.

**3. Sale of energy; contract procedures.** Energy, capacity resources or renewable energy credits contracted through long-term contracts pursuant to this section may be sold into the wholesale electricity market **separately or** in conjunction with solicitations for standard-offer supply bids under section 3212 or solicitations for green power offer bids under section 3212-A. To the greatest extent possible, the commission shall develop procedures for long-term contracts for transmission and distribution utilities under this section having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for transmission and distribution utilities.

**4. Contract term.** A contract entered into pursuant to this section may not be for more than 20 years.

**5. Contract pricing; cost containment.** **The commission shall solicit contract bids under this program. In selecting contracts, the commission shall weigh the characteristics of the project as follows:**

**A. A weight of 30% must be given to the combined efficiency of the electricity generation and heat utilization of the project;**

**B. A weight of 40% must be given to the total cost of the project; and**

**C. A weight of 30% must be given to the following other factors:**

**(1) The design of the project to meet the State's waste reduction and diversion priorities established by Title 38, section 2101 including, but not limited to, the proximity of the project to wood fuel derived from manufacturing residuals;**

**(2) The location of the project and whether electricity generated will meet an electric demand;**

**(3) The net greenhouse gas emissions from the project, as determined in consultation with the Department of Environmental Protection;**

**(4) The economic impact to the State from the project, including but not limited to jobs the project will create and maintain in wood fuel supply, at the electric generation plant and at the facility using the heat;**

(5) Whether the generation of electricity most effectively accounts for the changing seasonal time of day and other electricity usage characteristics associated with beneficial electrification over the duration of the contract;

(6) The impact to other Class I and IA resources, as defined in section 3210, subsection 2, on the system.

The commission may not direct an investor-owned transmission and distribution utility to enter into a long-term contract under this chapter in which the contract price for energy exceeds 10 cents per kilowatt hour.

The commission shall establish a contract price that applies to all combined heat and power project contracts entered into pursuant to this section, which may not exceed the tariff rate for commercial and institutional net energy billing projects, as established by the commission by rule and in accordance with section 3209-B, in the year the contract price is established plus annual cost escalators adopted by the commission.

6. Cost and benefit allocation. The commission shall ensure that all costs and benefits associated with contracts involving investor-owned transmission and distribution utilities entered into under this section are allocated to electricity consumers in accordance with section 3210-F.

7. Contract payments. Contracts for capacity and related energy entered into pursuant to this section must provide that payments will be made only after contracted amounts of energy have been provided.

8. Ratepayer protection. The commission shall ensure that mechanisms are established to provide protections for ratepayers over the term of contracts entered into pursuant to this section.

#### §3625. Rules

The commission ~~may~~ ~~shall~~ adopt rules to implement this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

#### §3626. Tracking; biennial report

The commission shall develop and administer a system to register and track the development of combined heat and power projects under this chapter and by January 15, ~~2023~~ ~~2022~~, and biennially thereafter, shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the program and the development of combined heat and power projects. The report must include, but is not limited to:

1. Combined heat and power project development. Documentation of the progress of combined heat and power project development, including the number of such projects in the State, the net generating capacity of those projects and the kilowatt-hours of electricity purchased from those projects; and

2. Program implementation; assessment; recommendations. Actions taken by the commission to implement the program, an assessment of the effectiveness of the program with respect to encouraging the sustainable development of combined heat and power projects in the State and recommendations, including any necessary implementing legislation, to improve the program.

#### §3627. Regulatory approvals; use of public resources

1. Regulatory approval. The development, siting and operation of a combined heat and power project is subject to all applicable regulatory reviews and approvals required by governmental entities, including, but not limited to, municipalities and state agencies, pursuant to law, ordinance or rule.

**2. Use of publicly owned land, water or facilities.** Nothing in this chapter limits the authority of the State or a political subdivision of the State to use publicly owned land, water or facilities in the development and operation of a combined heat and power project or to lease publicly owned land, water or facilities to other qualifying owners for the development and operation of a combined heat and power project.

### **SUMMARY**

The amendment makes several changes to the combined heat and power program, administered by the Public Utilities Commission. The definition of wood fuel for the purposes of the chapter is now limited to biomass derived from forest product manufacturing residuals, harvest residues, and downed trees and other plant materials removed for landscaping and invasive species control. The amendment also limits the program to 20 megawatts of net generating capacity across all projects.

The amendment changes the long-term contracting provision to clarify that the commission will seek competitive bids and it allows the commission, in requesting competitive bids for long term energy, capacity resources or renewable energy credit long term contracts, to reject all bids and open a new competitive bidding process if no proposals meet the requirements of the solicitation or the approval would not be in the public interest. In selecting contracts, the amendment establishes project characteristics that must be considered by the commission and the weights of the characteristics, and it caps the energy contract price at no more than 10 cents per kilowatt hour. The amendment also clarifies that transmission and distribution utility may sell energy, capacity resources or renewable energy credits into the wholesale market separately or in conjunction with solicitations for standard offer supply bids. Additionally, the amendment makes the commission's rulemaking permissive and updates the commission's first reporting date to January 15, 2023.