



SOLAR ENERGY ASSOCIATION OF MAINE

Testimony in Opposition to L.D. 1435

An Act Regarding the Solicitation of Contracts for Distributed Resources That Use Renewable Energy

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To the Joint Standing Committee on Energy, Utilities, and Technology

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Senator Lawrence, Representative Berry, and other members of the Joint Standing Committee on Energy, Utilities, and Technology: my name is Steve Weems, Executive Director of the Solar Energy Association of Maine. With respect for the sponsor of LD 1435, we oppose the timing and intent of LD 1435 and urge the Committee to report it out as Ought Not to Pass. We think it is premature to pass judgment on current law pertaining to a distributed generation resource competitive procurement program [35-A MRSA c. 34-C], herein referred to as the DG competitive procurement. Instead, we suggest certain legislative adjustments be made in the net energy billing (NEB) program that would facilitate a better trial run and objective evaluation of the DG competitive procurement program. This might include some modification of 35-A MRSA c. 34-C, for which LD 1435 might be a convenient vehicle. Our reasoning follows.

The Solar Energy Association of Maine (SEAM) is a broad coalition of solar energy supporters, advocating for the development of solar electricity of all project sizes and ownership models, for the benefit of all Maine people. It is a not-for-profit corporation governed by a diverse Board of Directors.

Included in LD 1711 in 2019 were innovative provisions for a DG competitive procurement program. This is now in the statutes at

35-A MRSA c. 34-C. As originally envisioned in LD 1711, the DG competitive procurement program was designed to be the sole venue for a renewable energy project for identified utility customers (which characterizes a retail program) in the range of 2-5 megawatts (MW). This was one part of a three-tier renewable energy program scenario. Small-scale projects (up to 2 MW) would define the net energy billing (NEB) space. Medium-scale projects (2-5 MW) would be the subject of the DG competitive procurement program. Large-scale projects (5 MW and above) would be considered in the renewable portfolio standard (RPS) procurement program. The grand design premise was to set a fixed price for small (NEB) projects, and inject competition into the process for any project larger than 2 MW (both the DG competitive procurement and RPS procurement programs). There would not be any overlap of the programs.

It is important to note that according to this vision all projects in the 2-5 MW range would be competitively bid. Also important is the critical distinction between the retail character of the DG competitive procurement program (under 5 MW), contrasted to the wholesale nature of the RPS procurement program (5 MW and larger).

The original intent to make all projects in the 2-5 MW range subject to competitive bidding was overridden when the upper limit of the NEB program was increased to 5 MW during the legislative process. This undercut the competitive dynamics to which projects in the 2-5 MW range would have been subject. This was particularly unfortunate because several unique, innovative provisions were included in the legislation for the DG procurement program, including but not limited to a preference for projects located on disturbed sites and a requirement that a certain portion of the output of each DG competitive procurement project be allocated to low and moderate-income people!

So the basic structure as originally envisioned was changed, with an unintended consequence of setting the DG competitive procurement program up to fail. This was compounded by setting milestones that DC competitive procurement project bidders were expected to meet, which in hindsight were unrealistic, exacerbated by the arrival of COVID-19.

Therefore, the first attempt at a DG competitive procurement was deemed a failure by the Public Utilities Commission, which under the circumstances should have been surprise to nobody. A second attempt is scheduled for 2021.

We don't know whether the DG competitive procurement program can be a success, and we don't think anyone else can judge this fairly either, particularly if some of the current problems are resolved. The statutory provisions for this program contain some innovative and desirable features [e.g., a preference for disturbed sites, a requirement to serve low and moderate-income (LMI) people], with the potential to add more desirable conditions over time. This is practical because this is a bid program serving identified retail customers, which is a unique combination allowing it to be tailored for the benefit of certain defined populations.

Taking all this into consideration, SEAM concludes the best approach would be to change the provisions that set the DG competitive procurement up to fail, have the PUC administer at least one more procurement, and then evaluate this program after it has been given a fair chance. Specifically, we recommend taking the following steps, which include certain provisions that would be part of the NEB program review:

- Establish a temporary moratorium on NEB projects in the 2-5 MW range for a defined period of time, or reduce the upper limit of the NEB program to 2 MW permanently.
- Make sure to grandfather NEB projects in the 2-5 MW range proposed by a defined date, provided they meet established criteria (not defined here).

Note these two actions presumably would come out of the NEB program review.

- Leave the DG competitive procurement program [35-A MRSA c. 34-C] untouched for now, with the possible exception of limiting it to the next scheduled round of PUC-administered procurement. [If new retail projects in the 2-5 MW range must go through this process, this would test the viability and merits of the DG competitive procurement program.]

- Include an evaluation of the DG competitive procurement program along with an evaluation of the NEB program under the joint direction of the PUC and the Governor's Energy Office (GEO), via a stakeholder process, during the second half of 2021.
- As a component of the foregoing evaluation process, engage a highly-qualified consulting firm to conduct a new, updated Maine state government evaluation of the costs and benefits of distributed solar generation, including utility internal economics, factors external to utilities and ratepayers, and direct and indirect costs and benefits.

Please note none of these actions require the use of LD 1435 as a vehicle, with the possible exception of converting the next round of solicitation under the DG competitive procurement program to a pilot.

In sum, LD 1435 as written would get rid of an innovative, unique, and potentially valuable mid-range renewable energy program before it can be fairly tested and evaluated. This is the basic reason for our opposition. SEAM recommends setting aside the provisions of LD 1435 and restructuring the ground rules for the next round of DG competitive procurement to see if this program has merit, before deciding what to do with it. It could be a vehicle for reasonable pricing and achieving special program objectives (e.g., benefits for LMI people) that cannot otherwise be realized.