

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

—  
H.P. 692 - L.D. 936

**An Act To Amend State Laws Relating to Net Energy Billing and the  
Procurement of Distributed Generation**

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

**Sec. 1. 35-A MRSA §3209-A, sub-§7** is enacted to read:

**7. Applicability.** A distributed generation resource with a nameplate capacity of at least 2 megawatts and not more than 5 megawatts may be used for net energy billing under this section only if the requirements of paragraph A, B or C are met and all the requirements of paragraphs D and E are met.

A. In order for a distributed generation resource to be used for net energy billing, one of the following must have been met on or before December 31, 2020:

(1) There is a signed interconnection agreement between the entity proposing the development of the distributed generation resource and a transmission and distribution utility governing the connection of the resource to the utility's system and the ongoing operation of the resource after it is connected to the system; or

(2) There is a net energy billing agreement between the entity proposing the development of the distributed generation resource and the transmission and distribution utility.

An amendment, revision or reissuance of an agreement under this paragraph that occurs after December 31, 2020 may not be interpreted to affect the date on which the initial agreement was signed.

B. In order for a distributed generation resource to be used for net energy billing, one of the following must have been met on or before April 30, 2021:

(1) A complete application for a customer net energy billing agreement has been submitted for the distributed generation resource and a customer has or customers have financial interest in 90% or more of the capacity of that distributed generation resource; or

(2) There is a fully executed net energy billing agreement between a customer or sponsor of the distributed generation resource and the transmission and distribution

utility for the distributed generation resource and a customer has or customers have financial interest in 90% or more of the capacity of that distributed generation resource.

C. In order for a distributed generation resource to be used for net energy billing, the following must have been met on or before June 1, 2021:

(1) The interconnection study process has commenced for a distributed generation resource located in those portions of the service territory of an investor-owned transmission and distribution utility that are not connected to the ISO-NE region as defined in section 1902, subsection 3.

D. In order for a distributed generation resource to be used for net energy billing, all of the following must be met on or before December 31, 2021:

(1) There is a fully executed interconnection agreement between the entity proposing the development of the distributed generation resource and the transmission and distribution utility;

(2) The entity proposing the development of the distributed generation resource certifies to the commission that the entity has submitted all applicable permit applications to the Department of Environmental Protection and the department has accepted those applications for processing; and

(3) The entity proposing the development of the distributed generation resource certifies to the commission that the entity has received all necessary local, nonministerial permits. For purposes of this subparagraph, "nonministerial permit" means a permit for which one or more officials consider various factors and exercise discretion in deciding whether to issue or deny the permit.

An amendment, revision or reissuance of an agreement under this paragraph that occurs after December 31, 2021 may not be interpreted to affect the date on which the agreement was initially executed.

E. In order for a distributed generation resource to be used for net energy billing, the following must be met on or before December 31, 2024:

(1) The proposed distributed generation resource must reach commercial operation by the date specified in the net energy billing agreement or by the date specified with an allowable modification to that agreement.

An entity proposing the development of a distributed generation resource that does not meet one or more of the requirements of this subsection may petition the commission for a good-cause exemption due to external delays outside of the entity's control, which the commission may grant if it finds that, without the external delays, the entity could reasonably have been expected to meet the requirements.

The goal for development of commercially operational distributed generation resources under this subsection and section 3209-B, subsection 7 is 750 total megawatts.

**Sec. 2. 35-A MRSA §3209-B, sub-§7** is enacted to read:

**7. Applicability.** The applicability of this section is limited by the requirements of section 3209-A, subsection 7.

**Sec. 3. 35-A MRSA §3482, sub-§1**, as enacted by PL 2019, c. 478, Pt. B, §1, is amended to read:

**1. Procurements.** The commission shall may not procure distributed generation resources in the shared distributed generation and commercial or institutional distributed generation market segments using the targets and procurement methods described in this chapter.

**Sec. 4. Stakeholder group; distributed generation project programs.** In coordination with the Public Utilities Commission, the Governor's Energy Office shall convene a stakeholder group to consider various distributed generation project programs to be implemented between 2024 and 2028 and the need for improved grid planning. The stakeholder group shall assist in the development and production of the interim and final reports required under subsections 2 and 3. For the purposes of this section, "distributed generation project" means a renewable energy project with a nameplate capacity of no more than 5 megawatts that has identified residential, commercial and institutional customers and includes, but is not limited to, net energy billing arrangement projects.

1. The stakeholder group established under this section must include, but is not limited to, the following stakeholders:

- A. The Public Advocate, or the Public Advocate's designee;
- B. A representative from the large energy consumer community;
- C. A representative of a conservation organization;
- D. A representative of an organization focused on low-income consumers or historically underrepresented communities;
- E. A representative of a large transmission and distribution utility;
- F. An individual with expertise in ground-mounted solar development;
- G. An individual with expertise in community solar development;
- H. A representative of a statewide renewable energy organization; and
- I. An individual with expertise in analyzing energy economics.

2. By January 1, 2022, the Governor's Energy Office shall submit an interim report to the Joint Standing Committee on Energy, Utilities and Technology that identifies issues that need further consideration or require additional resources including funding to complete and that includes recommendations and any proposed legislation to implement those recommendations that are supported by a majority of stakeholders regarding:

- A. How the State should undertake the adoption and implementation of a forward-looking, holistic grid planning process that allows for input from stakeholders and provides key actors with the ability to more strategically make system operations, planning and investment decisions;
- B. The optimum total amount of distributed generation for the program period calculated using 7% of total load based on operational capacity;
- C. How to cost-effectively incentivize net energy billing arrangement project diversity by:

- (1) Identifying the percentage of the optimum total amount of distributed generation that should be allocated to net energy billing arrangement projects;
- (2) Developing a mechanism to adjust the calculated optimum total amount of distributed generation described in paragraph B by subtracting the total amount of megawatts of commercially operational distributed generation resources developed in excess of the goal established in the Maine Revised Statutes, Title 35-A, section 3209-A, subsection 7;
- (3) Considering all types of distributed generation, including, but not limited to, net energy billing arrangements paired with energy storage;
- (4) Determining the appropriate duration for long-term contracts;
- (5) Identifying mechanisms that prioritize distributed generation that are sited to:
  - (a) Limit impacts by being located on previously developed or impacted land, including areas covered by impervious surfaces, reclaimed gravel pits, capped landfills or brownfield sites as defined by the Department of Environmental Protection;
  - (b) Serve load within a low-income to moderate-income community;
  - (c) Directly serve customer load; or
  - (d) Optimize grid performance or serve a nonwires alternative function; and
- (6) Including recommendations regarding how information from a holistic grid planning process can be included to improve a distributed generation project program until its conclusion; and

D. How to support the successful development of distributed generation by small companies based in the State.

The committee may report out a bill to the Second Regular Session of the 130th Legislature based on the information and recommendations included in the interim report.

3. By January 1, 2023, the Governor's Energy Office shall submit a final report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters that includes, subject to available resources, the following:

- A. Identification of the recommended optimum total amount of distributed generation for the program period represented as a percentage of total load;
- B. An estimation of the net ratepayer impacts, including all on-bill benefits and costs, expected as a result of the development of distributed generation resources under the Maine Revised Statutes, Title 35-A, section 3209-A, subsection 7 and Title 35-A, section 3209-B, subsection 7, accounting for projects that have reached or are expected to reach full maturity and load growth trends;
- C. Identification of a method or methods that can be used to balance the impact of the development of distributed generation resources under the Maine Revised Statutes, Title 35-A, sections 3209-A and 3209-B with load growth to mitigate potential electricity rate increases as a result of this development of distributed generation resources;

D. Updates to the finance enabling policies in the "Maine Distributed Solar Valuation Study" prepared for the Public Utilities Commission by Clean Power Research, including the costs and benefits of on-bill and off-bill financing;

E. Consideration of the feasibility of implementing innovations to increase the net ratepayer value of distributed generation, including, but not limited to, time-differentiated rates and 2-way energy flows;

F. Consideration of the use of declining net energy billing arrangement bill credit rates, including the use of reduced bill credit rates for distributed generation that is not located on one of the prioritized sites identified in the interim report pursuant to subsection 2, paragraph C, subparagraph (5); and

G. Consideration of the feasibility of standardizing the classification of distributed generation as load reducers, regardless of whether the bill credit is in the form of kilowatt-hour credits or monetary credits.

The committee may report out a bill to the First Regular Session of the 131st Legislature based on the information and recommendations included in the final report.

**Sec. 5. Rules.** Notwithstanding the Maine Revised Statutes, Title 35-A, section 3209-A, rules initially adopted pursuant to section 3209-A, subsection 7 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC UTILITIES COMMISSION**

**Public Utilities - Administrative Division 0184**

Initiative: Provides funding for one Utility Analyst position and related All Other costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$104,561	\$145,312
All Other	\$6,577	\$8,880
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$111,138</b>	<b>\$154,192</b>