

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1570

S.P. 501

In Senate, May 12, 2011

### An Act To Reduce Energy Prices for Maine Consumers

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Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator THIBODEAU of Waldo. (GOVERNOR'S BILL)  
Cosponsored by Representative DUNPHY of Embden.

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

2 **Sec. 1. 35-A MRSA §3210, sub-§3-A, ¶A**, as corrected by RR 2007, c. 2, §20,  
3 is amended to read:

4 A. ~~Except as provided in paragraph B, beginning~~ Beginning January 1, 2008, as a  
5 condition of licensing pursuant to section 3203, each competitive electricity provider  
6 in this State must demonstrate in a manner satisfactory to the commission that the  
7 percentage of its portfolio of supply sources for retail electricity sales in this State  
8 accounted for by new renewable capacity resources is as follows:

- 9 (1) One percent for the period from January 1, 2008 to December 31, 2008;  
10 (2) Two percent for the period from January 1, 2009 to December 31, 2009;  
11 (3) Three percent for the period from January 1, 2010 to December 31, 2010;  
12 and  
13 (4) Four percent ~~for the period from~~ beginning January 1, 2011 ~~to December 31,~~  
14 ~~2011;~~  
15 (5) ~~Five percent for the period from January 1, 2012 to December 31, 2012;~~  
16 (6) ~~Six percent for the period from January 1, 2013 to December 31, 2013;~~  
17 (7) ~~Seven percent for the period from January 1, 2014 to December 31, 2014;~~  
18 (8) ~~Eight percent for the period from January 1, 2015 to December 31, 2015;~~  
19 (9) ~~Nine percent for the period from January 1, 2016 to December 31, 2016; and~~  
20 (10) ~~Ten percent for the period from January 1, 2017 to December 31, 2017.~~

21 New renewable capacity resources used to satisfy the requirements of this paragraph  
22 may not be used to satisfy the requirements of subsection 3.

23 **Sec. 2. 35-A MRSA §3210, sub-§3-A, ¶B**, as enacted by PL 2007, c. 403, §4, is  
24 repealed.

25 **Sec. 3. 35-A MRSA §3210, sub-§3-A, ¶C**, as enacted by PL 2007, c. 403, §4, is  
26 amended to read:

27 C. No later than March 31, 2008 and annually thereafter, the commission shall  
28 submit a report regarding the status of new renewable capacity resources in the State  
29 and compliance with the portfolio requirements under paragraph A to the joint  
30 standing committee of the Legislature having jurisdiction over utilities and energy  
31 matters. The report must include, but is not limited to, a description of new renewable  
32 capacity resources available to meet the portfolio requirements under paragraph A,  
33 documentation of the loss of any existing renewable generation capacity in the State,  
34 the status of implementation of the new renewable capacity resources portfolio  
35 requirements, ~~including any suspensions pursuant to paragraph B,~~ and  
36 recommendations to stimulate investment in new renewable capacity resources.

1           **Sec. 4. 35-A MRSA §3210, sub-§9, ¶A**, as enacted by PL 2007, c. 403, §7, is  
2 amended to read:

3           A. The commission shall set the alternative compliance payment rate, which may not  
4 be greater than 110% of the previous year's average market prices of renewable  
5 energy credits, by rule and shall publish the alternative compliance payment rate by  
6 January 31st of each year. ~~In setting the rate, the commission shall take into account~~  
7 ~~prevailing market prices, standard offer service prices for electricity, reliance on~~  
8 ~~alternative compliance payments to meet the requirements of subsection 3-A and~~  
9 ~~investment in new renewable capacity resources in the State during the previous~~  
10 ~~calendar year.~~

11           **Sec. 5. 35-A MRSA §3210-C, sub-§3**, as amended by PL 2009, c. 518, §3, is  
12 further amended to read:

13           **3. Commission authority.** The commission may direct investor-owned  
14 transmission and distribution utilities to enter into long-term contracts for:

15           A. Capacity resources;

16           B. Any available energy associated with capacity resources contracted under  
17 paragraph A:

18                   (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

19                   (2) If the commission determines appropriate for purposes of supplying or  
20 lowering the ~~cost~~ price of standard-offer service or otherwise lowering the ~~cost~~  
21 price of electricity for the ratepayers in the State. Available energy contracted  
22 pursuant to this subparagraph may be sold into the wholesale electricity market in  
23 conjunction with solicitations for standard-offer supply bids; and

24           C. Any available renewable energy credits associated with capacity resources  
25 contracted under paragraph A to the extent the cost of the renewable energy credits is  
26 below market value or the purchase of renewable energy credits adds value to the  
27 transaction.

28           The commission may not approve a long-term contract that is greater than 90% of the  
29 average market price at the time of delivery to the market for capacity resources,  
30 available energy associated with capacity resources or available renewable energy credits  
31 associated with capacity resources.

32           If at any time after July 1, 2011 the commission determines that the assessments on  
33 transmission and distribution utilities under section 10110, subsections 4 and 5 will not  
34 provide sufficient funds to meet the energy efficiency program budget allocations  
35 articulated in the triennial plan approved by the commission pursuant to section 10104,  
36 subsection 4 or any annual update plan approved by the commission pursuant to section  
37 10104, subsection 6, the commission may, after ~~providing notification to the joint~~  
38 ~~standing committee~~ receiving the approval of the Legislature ~~having jurisdiction over~~  
39 ~~utilities and energy matters~~, direct investor-owned transmission and distribution utilities  
40 to enter into long-term contracts for energy efficiency capacity resources and any  
41 available energy associated with such resources to the extent necessary to meet the

1 energy efficiency program budget allocations articulated in the triennial plan or annual  
2 update plan.

3 The commission may direct investor-owned transmission and distribution utilities to enter  
4 into contracts under this subsection only as agents for their customers, only when such  
5 contracts are in the best interest of customers and only in accordance with this section.  
6 The commission may permit, but may not require, investor-owned transmission and  
7 distribution utilities to enter into contracts for differences that are designed and intended  
8 to buffer ratepayers in the State from potential negative impacts from transmission  
9 development. To the greatest extent possible, the commission shall develop procedures  
10 for long-term contracts for investor-owned transmission and distribution utilities under  
11 this subsection having the same legal and financial effect as the procedures used for  
12 standard-offer service pursuant to section 3212 for investor-owned transmission and  
13 distribution utilities.

14 The commission may enter into contracts for interruptible, demand response or energy  
15 efficiency capacity resources. These contracts are not subject to the rules of the State  
16 Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the  
17 commission shall allow transmission and distribution utilities to submit bids for  
18 interruptible or demand response capacity resources.

19 Capacity resources contracted under this subsection may not exceed the amount  
20 necessary to ensure the reliability of the electric grid of this State, to meet the energy  
21 efficiency program budget allocations articulated in the triennial plan as approved by the  
22 commission pursuant to section 10104, subsection 4 or any annual update plan approved  
23 by the commission pursuant to section 10104, subsection 6 or to lower customer costs as  
24 determined by the commission pursuant to rules adopted under subsection 10.

25 Unless the commission determines the public interest requires otherwise, a capacity  
26 resource may not be contracted under this subsection unless the commission determines  
27 that the capacity resource is recognized as a capacity resource for purposes of any  
28 regional or federal capacity requirements.

29 The commission shall ensure that any long-term contract authorized under this subsection  
30 is consistent with the State's goals for greenhouse gas reduction under Title 38, section  
31 576 and the regional greenhouse gas initiative as described in the state climate action plan  
32 required in Title 38, section 577.

### 33 **SUMMARY**

34 This bill does the following.

35 1. It eliminates the requirement that an electricity provider demonstrate that more  
36 than 4% of its supply sources for retail electricity sales come from new renewable  
37 capacity resources. Current law increases by 1% each year the amount of supply sources  
38 for retail electricity sales that must come from new renewable capacity resources until it  
39 reaches 10% in 2017.

40 2. It eliminates the requirement that the Public Utilities Commission determine in  
41 2012, 2014 and 2016 whether an investment by an electricity provider in new renewable  
42 capacity resources is sufficient to meet the requirements of the law.

1           3. It requires the Public Utilities Commission to set the price of the alternative  
2 compliance payment rate for meeting the new renewable capacity resource requirement at  
3 no more than 110% of the prior year's average market prices of renewable energy credits.

4           4. It allows the Public Utilities Commission to enter into long-term contracts for the  
5 purposes of supplying or lowering the price of standard-offer service or electricity to  
6 ratepayers; current law allows the commission to do this for the purpose of lowering the  
7 cost of standard-offer service or electricity.

8           5. It specifies that any long-term contract negotiated by the Public Utilities  
9 Commission for capacity resources, available energy associated with capacity resources  
10 or available renewable energy credits associated with capacity resources may not be  
11 greater than 90% of the market price of capacity resources, available energy associated  
12 with capacity resources or available renewable energy credits associated with capacity  
13 resources.

14           6. It requires the Public Utilities Commission to obtain the approval of the  
15 Legislature, instead of providing notice to the joint standing committee of the Legislature  
16 having jurisdiction over utilities and energy matters, prior to requiring an investor-owned  
17 transmission and distribution utility to enter into a long-term contract for energy  
18 efficiency capacity resources.