

MAINE STATE LEGISLATURE

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L.D. 936

Date: 6-15-21

(Filing No. H-638)

MAJORITY
ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 692, L.D. 936, "An Act To Amend State Laws Relating to Net Energy Billing and the Procurement of Distributed Generation"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 35-A MRSA §3209-A, sub-§5 is enacted to read:

5. 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 or B are met and all the requirements of paragraphs C and D 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

COMMITTEE AMENDMENT

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1 (2) There is a fully executed net energy billing agreement between a customer or
2 sponsor of the distributed generation resource and the transmission and distribution
3 utility for the distributed generation resource and a customer has or customers have
4 financial interest in 90% or more of the capacity of that distributed generation
5 resource.

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

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

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

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

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

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

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

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

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

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

36 **7. Applicability.** The applicability of this section is limited by the requirements of
37 section 3209-A, subsection 5.

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

40 **1. Procurements.** The commission ~~shall~~ may not procure distributed generation
41 resources in the shared distributed generation and commercial or institutional distributed

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1 generation market segments using the targets and procurement methods described in this
2 chapter.

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

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

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

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

- 29 A. How the State should undertake the adoption and implementation of a forward-
30 looking, holistic grid planning process that allows for input from stakeholders and
31 provides key actors with the ability to more strategically make system operations,
32 planning and investment decisions;
- 33 B. The optimum total amount of distributed generation for the program period
34 calculated using 7% of total load based on operational capacity;
- 35 C. How to cost-effectively incentivize net energy billing arrangement project diversity
36 by:
 - 37 (1) Identifying the percentage of the optimum total amount of distributed
38 generation that should be allocated to net energy billing arrangement projects;
 - 39 (2) Developing a mechanism to adjust the calculated optimum total amount of
40 distributed generation described in paragraph B by subtracting the total amount of
41 megawatts of commercially operational distributed generation resources

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- 1 developed in excess of the goal established in the Maine Revised Statutes, Title
- 2 35-A, section 3209-A, subsection 5;
- 3 (3) Considering all types of distributed generation, including, but not limited to,
- 4 net energy billing arrangements paired with energy storage;
- 5 (4) Determining the appropriate duration for long-term contracts;
- 6 (5) Identifying mechanisms that prioritize distributed generation that are sited to:
 - 7 (a) Limit impacts by being located on previously developed or impacted land,
 - 8 including areas covered by impervious surfaces, reclaimed gravel pits, capped
 - 9 landfills or brownfield sites as defined by the Department of Environmental
 - 10 Protection;
 - 11 (b) Serve load within a low-income to moderate-income community;
 - 12 (c) Directly serve customer load; or
 - 13 (d) Optimize grid performance or serve a nonwires alternative function; and
- 14 (6) Including recommendations regarding how information from a holistic grid
- 15 planning process can be included to improve a distributed generation project
- 16 program until its conclusion; and
- 17 D. How to support the successful development of distributed generation by small
- 18 companies based in the State.

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

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

- 24 A. Identification of the recommended optimum total amount of distributed generation
25 for the program period represented as a percentage of total load;
- 26 B. An estimation of the net ratepayer impacts, including all on-bill benefits and costs,
27 expected as a result of the development of distributed generation resources under the
28 Maine Revised Statutes, Title 35-A, section 3209-A, subsection 5 and Title 35-A,
29 section 3209-B, subsection 7, accounting for projects that have reached or are expected
30 to reach full maturity and load growth trends;
- 31 C. Identification of a method or methods that can be used to balance the impact of the
32 development of distributed generation resources under the Maine Revised Statutes,
33 Title 35-A, sections 3209-A and 3209-B with load growth to mitigate potential
34 electricity rate increases as a result of this development of distributed generation
35 resources;
- 36 D. Updates to the finance enabling policies in the "Maine Distributed Solar Valuation
37 Study" prepared for the Public Utilities Commission by Clean Power Research,
38 including the costs and benefits of on-bill and off-bill financing;
- 39 E. Consideration of the feasibility of implementing innovations to increase the net
40 ratepayer value of distributed generation, including, but not limited to, time-
41 differentiated rates and 2-way energy flows;

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

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

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

10 **Sec. 5. Rules.** Notwithstanding the Maine Revised Statutes, Title 35-A, section
11 3209-A, rules initially adopted pursuant to section 3209-A, subsection 5 are routine
12 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

15 **PUBLIC UTILITIES COMMISSION**

16 **Public Utilities - Administrative Division 0184**

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

18	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
19	POSITIONS - LEGISLATIVE COUNT	1,000	1,000
20	Personal Services	\$104,561	\$145,312
21	All Other	\$6,577	\$8,880
22			
23	OTHER SPECIAL REVENUE FUNDS TOTAL	\$111,138	\$154,192

24
25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
26 number to read consecutively.

27 **SUMMARY**

28 This amendment replaces the bill, which is a concept draft. It specifies the
29 requirements that must be met for a distributed generation resource with a nameplate
30 capacity of at least 2 megawatts and no more than 5 megawatts to be able to participate in
31 net energy billing under the Maine Revised Statutes, Title 35-A, sections 3209-A and
32 3209-B. It also specifies a goal for the development of commercially operational distributed
33 generation resources of 750 total megawatts. It prohibits the Public Utilities Commission
34 from procuring distributed generation under Title 35-A, chapter 34-C.

35 It also requires the Governor's Energy Office in coordination with the Public Utilities
36 Commission to convene a stakeholder group to consider various distributed generation
37 project programs to be implemented between 2024 and 2028 and the need for improved
38 grid planning. It defines, for the purposes of this stakeholder process, "distributed
39 generation project" as a renewable energy project with a nameplate capacity of no more
40 than 5 megawatts that has identified residential, commercial and institutional customers,
41 including but not limited to net energy billing arrangement projects. It specifies those
42 stakeholders that must be included and requires both an interim report and final report. The

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COMMITTEE AMENDMENT "A" to H.P. 692, L.D. 936

1 amendment includes what must be examined for each report. It allows the Joint Standing
2 Committee on Energy, Utilities and Technology to report out a bill during the Second
3 Regular Session of the 130th Legislature based on the interim report and the joint standing
4 committee of the Legislature having jurisdiction over energy and utility matters to report
5 out a bill to the First Regular Session of the 131st Legislature based on the final report.

6 The amendment adds an appropriations and allocations section.

7 **FISCAL NOTE REQUIRED**

8 **(See attached)**

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 936

LR 469(02)

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

Fiscal Note for Bill as Amended by Committee Amendment *Am (H-638)*

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Appropriations/Allocations				
Other Special Revenue Funds	\$111,138	\$154,192	\$159,562	\$164,668
Revenue				
Other Special Revenue Funds	\$111,138	\$154,192	\$159,562	\$164,668

Fiscal Detail and Notes

This bill changes certain criteria for distributed generation resources to participate in net energy billing programs. It also directs the Public Utilities Commission (PUC) and the Governor's Energy Office to convene a stakeholder group to consider various planned distributed generation project programs and the need for improved grid planning. The PUC has indicated that the requirements of this bill will require additional staffing. The bill includes ongoing allocations of \$111,138 starting in fiscal year 2021-22 for one Utility Analyst position and associated costs. The PUC is funded by an assessment set to produce sufficient revenue for the expenditures allocated by the Legislature for operating the PUC. The increased allocations in this bill require a corresponding increase in revenue from the assessment on transmission and distribution utilities.