

MAINE STATE LEGISLATURE

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Date: 4/5/22

L.D. 1202
(Filing No. H-932)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 880, L.D. 1202, "An Act To Establish a Wood-fired Combined Heat and Power Program"

Amend the bill by striking out all of section 3 and inserting the following:

'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.

COMMITTEE AMENDMENT

- 1 **4. Wood fuel.** "Wood fuel" means biomass derived from:
- 2 A. Forest products manufacturing residuals, including, but not limited to, mill chips,
- 3 sawdust, bark, shavings and fines;
- 4 B. Harvest residues, including trees or portions of harvested trees that are too small or
- 5 of too poor quality to be used for wood products; or
- 6 C. Downed trees from weather events and natural disasters, nonhazardous landscape
- 7 or right-of-way trimmings and plant material removed for purposes of invasive species
- 8 control.

9 **§3623. Combined heat and power program**

10 1. Program established. The combined heat and power program, referred to in this

11 chapter as "the program," is established to encourage the development in the State of

12 combined heat and power projects that will promote the climate action plan developed in

13 accordance with Title 38, section 577, subsection 1. The program is administered by the

14 commission.

15 2. Program scope; limits on net generating capacity. The commission shall limit

16 participation in the program in accordance with this subsection.

17 A. The net generating capacity of a program participant may not be less than 3

18 megawatts or more than 10 megawatts.

19 B. The total net generating capacity of all program participants combined may not

20 exceed 20 megawatts.

21 The commission may modify the amount of total net generating capacity stipulated

22 under this paragraph based on program experience.

23 3. Program eligibility criteria. To be eligible to participate in the program, a

24 combined heat and power project must:

- 25 A. Be connected to the electric grid of this State;
- 26 B. Have an in-service date after November 1, 2022;
- 27 C. Satisfy the limits on net generating capacity established in subsection 2, paragraph
- 28 A;
- 29 D. Be highly efficient, as determined by the commission; and
- 30 E. Not be a participant in net energy billing under section 3209-A or 3209-B.

31 The commission shall prescribe an application form or procedure that must be used to apply

32 to the program under this chapter, which must include any information that the commission

33 determines necessary for the purpose of administering the program. The commission shall

34 inform an applicant, within 30 days of receipt of an application, if the application is

35 complete. The commission shall determine whether the combined heat and power project

36 qualifies for participation in the program as soon as practicable and respond in writing.

37 **§3624. Long-term contracts for combined heat and power**

38 1. Investor-owned transmission and distribution utilities; required participation.

39 Notwithstanding section 3204, the commission may direct an investor-owned transmission

40 and distribution utility to enter into long-term contracts with one or more program

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1 participants located within the service territory of the utility for energy, capacity resources
2 or renewable energy credits. The commission may direct investor-owned transmission and
3 distribution utilities to enter into contracts under this subsection only as agents for their
4 customers and only in accordance with this section. An investor-owned transmission and
5 distribution utility shall sell energy, capacity resources or renewable energy credits
6 purchased pursuant to this subsection into the wholesale electricity market or take other
7 action relative to such energy, capacity resources or renewable energy credits as directed
8 by the commission.

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

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

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

26 **5. Contract pricing; cost containment.** The commission shall solicit contract bids
27 under the program. In selecting contracts, the commission shall weigh the characteristics
28 of a proposed combined heat and power project as follows:

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

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

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

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

37 (2) The location of the project and whether electricity generated will meet a
38 demand for electricity;

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

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

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1 (5) Whether the generation of electricity most effectively accounts for the changing
2 seasonal time of day and other electricity usage characteristics associated with
3 beneficial electrification as defined in section 10102, subsection 3-A over the
4 duration of the contract; and

5 (6) The effect on other Class I resources and Class IA resources, as defined in
6 section 3210, subsection 2.

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

10 If at the close of the competitive bidding process under this subsection the commission
11 determines that no proposal meets the requirements of the solicitation or that an approval
12 is not in the public interest, the commission may reject all proposals and may open a new
13 competitive bidding process.

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

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

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

24 **§3625. Rules**

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

27 **§3626. Tracking; biennial report**

28 The commission shall develop and administer a system to register and track the
29 development of combined heat and power projects under this chapter and by January 15,
30 2023, and biennially thereafter, shall report to the joint standing committee of the
31 Legislature having jurisdiction over utilities and energy matters on the program and the
32 development of combined heat and power projects. The report must include, but is not
33 limited to:

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

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

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§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.'

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

SUMMARY

This amendment makes several changes to the provisions in the bill that establish the combined heat and power program administered by the Public Utilities Commission. The definition of "wood fuel" for the purposes of the program is limited to biomass derived from forest products 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 in the bill to clarify that the commission must seek competitive bids and it allows the commission, in requesting competitive bids for long-term contracts for energy, capacity resources or renewable energy credits, 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. The amendment establishes project characteristics that must be considered by the commission in selecting contracts 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 utilities 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 to implement the program permissive and updates the commission's first reporting date relating to the development of combined heat and power projects to January 15, 2023.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 1202

LR 1542(02)

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

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-932)
Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Public Utilities Commission as a result of the establishment of a wood-fired combined heat and power program or their administration of the program are anticipated to be minor and can be absorbed within existing budgeted resources.