

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1936

S.P. 754

In Senate, May 6, 2025

An Act to Provide Greater Equity in and Reduce Costs Related to the State's Net Energy Billing Program

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

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator GROHOSKI of Hancock.

Cosponsored by Senator: HARRINGTON of York, Representative: WARREN of
Scarborough.

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

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

3 C-1. "Nonresident program owner" means an owner of a distributed generation
4 resource used for net energy billing whose principal place of business is located outside
5 of the State.

6 **Sec. 2. 35-A MRSA §3209-A, sub-§2**, as enacted by PL 2019, c. 478, Pt. A, §3, is
7 amended to read:

8 **2. Financial interest required.** The Except as otherwise provided in this section, the
9 commission shall allow a customer to participate in net energy billing if the customer has
10 a financial interest in a distributed generation resource or in a generation resource that has
11 a net energy billing arrangement on the effective date of this section, including facility
12 ownership, a lease agreement or a power purchase agreement.

13 **Sec. 3. 35-A MRSA §3209-A, sub-§2-A** is enacted to read:

14 **2-A. Net energy billing term length.** Except as provided in subsections 11 and 12, a
15 person may not participate in net energy billing under this section after the expiration of
16 the person's net energy billing agreement with the transmission and distribution utility for
17 the distributed generation resource. An amendment, revision or reissuance of an agreement
18 made after May 1, 2025 may not include an end date that is later than the agreement that is
19 subject to the amendment, revision or reissuance.

20 **Sec. 4. 35-A MRSA §3209-A, sub-§5-A** is enacted to read:

21 **5-A. Low-income customers; replacement of terminated customers.** If a customer
22 with a shared financial interest in a distributed generation resource participating in net
23 energy billing terminates the customer's participation in the net energy billing arrangement,
24 the transmission and distribution utility shall replace that customer by enrolling a customer
25 receiving low-income assistance pursuant to section 3214, subsection 2 who is located in
26 the same transmission and distribution utility service territory as the terminated customer.
27 The replacement customer must be enrolled with terms no less financially favorable than
28 those applicable to the customer whose participation was terminated. The commission
29 shall adopt rules to implement this subsection and to create a process for the random
30 selection and automatic enrollment of a customer receiving low-income assistance pursuant
31 to section 3214, subsection 2 into the distributed generation resource's net energy billing
32 arrangement. The commission shall allow a customer, when enrolling in a low-income
33 assistance program pursuant to section 3214, subsection 2, to opt out of automatic
34 enrollment in a net energy billing arrangement as described in this subsection.
35 Notwithstanding any provision of this section to the contrary, rules adopted by the
36 commission pursuant to this subsection are routine technical rules as defined in Title 5,
37 chapter 375, subchapter 2-A.

38 **Sec. 5. 35-A MRSA §3209-A, sub-§9**, as enacted by PL 2023, c. 411, §2, is
39 amended to read:

40 **9. Applicability to projects between greater than one megawatt and not more**
41 **than 2 megawatts.** A distributed generation resource with a nameplate capacity of at least
42 greater than one megawatt and not more than 2 megawatts may be used for net energy
43 billing under this section only if the requirements of paragraph A are met.

1 A. On or before December 31, 2024, the proposed distributed generation resource must
2 reach commercial operation by the date specified in the net energy billing agreement
3 or by the date specified with an allowable modification to that agreement.

4 An entity proposing the development of a distributed generation resource that does not
5 meet the requirement of this subsection may petition the commission for a good-cause
6 exemption due to external delays outside of the entity's control, which the commission may
7 grant if it finds that without the external delays the entity could reasonably have been
8 expected to meet the requirement, except that a distributed generation resource that receives
9 a good-cause exemption may not be used for net energy billing under this section unless it
10 reaches commercial operation by December 31, 2025.

11 **Sec. 6. 35-A MRSA §3209-A, sub-§10** is enacted to read:

12 **10. Limitation; October 1, 2025.** Except as provided in subsections 11 and 12, a
13 distributed generation resource may not be used for net energy billing unless the distributed
14 generation resource reaches commercial operation by the date specified in the net energy
15 billing agreement entered into by October 1, 2025.

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

21 **Sec. 7. 35-A MRSA §3209-A, sub-§11** is enacted to read:

22 **11. Consumer-owned small project exception; rules.** In accordance with this
23 subsection, the commission may approve the use of a consumer-owned small project in net
24 energy billing under this section.

25 A. For the purposes of this subsection, "consumer-owned small project" means a
26 distributed generation resource with a nameplate capacity of one megawatt or less that
27 is wholly owned by the customers receiving the net energy billing credits associated
28 with the output of the distributed generation resource.

29 B. A consumer-owned small project is not subject to the limitations established in
30 subsection 2-A.

31 C. The commission may adopt rules to implement this subsection. Rules adopted
32 pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375,
33 subchapter 2-A.

34 **Sec. 8. 35-A MRSA §3209-A, sub-§12** is enacted to read:

35 **12. Single customer-owned on-site project exception.** Notwithstanding any
36 provision of this section to the contrary, a distributed generation resource may be used for
37 net energy billing if the distributed generation resource is owned by a customer and:

38 A. Is used to serve the electric load of that customer only; and

39 B. Meets the criterion that 100% of the net energy billing credits associated with the
40 output of the distributed generation resource are allocated to the retail account of that
41 customer.

42 **Sec. 9. 35-A MRSA §3209-A, sub-§13** is enacted to read:

1 **13. Nonresident program owner; compensation.** Notwithstanding any provision of
2 this section to the contrary, the commission shall establish by rule compensation rates,
3 starting January 1, 2026, applicable to all customers participating in net energy billing with
4 distributed generation resources owned by nonresident program owners. The commission
5 shall revise the compensation rates established by rule as often as it determines necessary
6 to ensure that the rates are just and reasonable to a nonresident program owner and the
7 customers of the distributed generation resource by providing that a nonresident program
8 owner has a reasonable opportunity to earn a fair profit from the operation of the distributed
9 generation resource while ensuring a cost-to-benefit ratio for ratepayers as close to equal
10 as possible. Rules adopted pursuant to this subsection are routine technical rules as defined
11 in Title 5, chapter 375, subchapter 2-A.

12 **Sec. 10. 35-A MRSA §3209-B, sub-§1, ¶E** is enacted to read:

13 E. "Nonresident program owner" has the same meaning as in section 3209-A,
14 subsection 1, paragraph C-1.

15 **Sec. 11. 35-A MRSA §3209-B, sub-§5, ¶A-2** is enacted to read:

16 A-2. Starting January 1, 2026, the tariff rate for a customer participating in net energy
17 billing under this section with a distributed generation resource not owned by a
18 nonresident program owner must equal 9.5¢ and increase by 2.25% on January 1st of
19 each subsequent year. If the tariff rate established under this paragraph would cause a
20 project that has reached commercial operation by January 1, 2026 to no longer be
21 financially viable, the owner of a distributed generation resource may petition the
22 commission for an adjustment to the tariff rate. The petition must include sufficient
23 financial information to allow the commission to determine financial viability, and the
24 commission shall issue a protective order for the contents of the petition in accordance
25 with section 1311-A to protect the interests of the owner filing the petition. If the
26 commission determines that the owner cannot reasonably operate the project under the
27 tariff rate established in accordance with this paragraph, the commission shall
28 determine a tariff rate for the project that provides the owner a reasonable opportunity
29 to earn a fair profit from the operation of the project while balancing the financial
30 interests of all ratepayers.

31 **Sec. 12. 35-A MRSA §3209-B, sub-§5-A** is enacted to read:

32 **5-A. Net energy billing term length.** Notwithstanding any provision of law to the
33 contrary, a person may not participate in net energy billing under this section after the
34 expiration of the person's net energy billing agreement with the transmission and
35 distribution utility for the distributed generation resource. An amendment, revision or
36 reissuance of an agreement made after May 1, 2025 may not include an end date that is
37 later than the agreement that is subject to the amendment, revision or reissuance.

38 **Sec. 13. 35-A MRSA §3209-B, sub-§9** is enacted to read:

39 **9. Nonresident program owner; compensation.** Starting January 1, 2026, the
40 commission shall establish by rule compensation rates applicable to all customers
41 participating in net energy billing with distributed generation resources owned by
42 nonresident program owners. The commission shall revise the compensation rates
43 established by rule as often as it determines necessary to ensure that the rates are just and
44 reasonable to a nonresident program owner and the customers of the distributed generation

1 resource by providing that a nonresident program owner has a reasonable opportunity to
2 earn a fair profit from the operation of the distributed generation resource while ensuring a
3 cost-to-benefit ratio for ratepayers as close to equal as possible. Rules adopted pursuant to
4 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
5 2-A.

6 SUMMARY

7 This bill does the following.

8 1. It provides that a person is prohibited from participating in the kilowatt-hour credit
9 and tariff rate net energy billing programs after the expiration of the person's net energy
10 billing agreement with the transmission and distribution utility for the distributed
11 generation resource, with some exceptions.

12 2. It provides that a distributed generation resource that is greater than one megawatt
13 and not more than 2 megawatts that receives a good-cause exemption from the Public
14 Utilities Commission must reach commercial operation by December 31, 2025 to
15 participate in the kilowatt-hour credit net energy billing program and the tariff rate net
16 energy billing program.

17 3. It creates a limited exception from the kilowatt-hour credit net energy billing
18 program limitations to allow a distributed generation resource with a nameplate capacity
19 of one megawatt or less to participate in net energy billing if the distributed generation
20 resource is wholly owned by the customers receiving the net energy billing credits
21 associated with the output of the distributed generation resource.

22 4. It allows a distributed generation resource to be used in the kilowatt-hour credit net
23 energy billing program if the distributed generation resource is owned by the customer and
24 is used to serve the electric load of that customer only and 100% of the net energy billing
25 credits associated with the distributed generation resource are allocated to the retail account
26 of that customer.

27 5. It directs the commission, starting January 1, 2026, to establish by routine technical
28 rule the compensation rates applicable to all customers participating in net energy billing
29 with distributed generation resources owned by nonresident program owners.

30 6. It requires a transmission and distribution utility, if a customer with a shared
31 financial interest in the resource terminates the customer's participation in the net energy
32 billing arrangement, to replace that customer by enrolling a customer receiving low-income
33 assistance under the Maine Revised Statutes, Title 35-A, section 3214, subsection 2 who is
34 located in the same transmission and distribution utility service territory as the terminated
35 customer.

36 7. Starting January 1, 2026, it establishes that the tariff rate set by the commission by
37 rule for a customer participating in the tariff rate net energy billing program with a
38 distributed generation resource not owned by a nonresident program owner must equal 9.5¢
39 and increase by 2.25% on January 1st of each subsequent year. If the tariff rate established
40 would cause a project that has reached commercial operation by January 1, 2026 to no
41 longer be financially viable, the owner of a distributed generation resource may petition
42 the commission for an adjustment to the tariff rate.