

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

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No. 1434

H.P. 998

House of Representatives, March 22, 2005

An Act To Reform the Renewable Electricity Portfolio Standard

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BLISS of South Portland.
Cosponsored by Senator BARTLETT of Cumberland and
Representative: FLETCHER of Winslow.

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

2
3 **Sec. 1. 35-A MRSA §3210, sub-§1**, as amended by PL 1999, c.
4 398, Pt. I, §1, is further amended to read:

6 **1. Policy.** In order to ensure an adequate and reliable
7 supply of electricity for Maine residents and to encourage
8 economic development opportunities in this State, to reduce
9 greenhouse gas emissions from the State's electricity supply
10 portfolio and to maintain and increase the use of renewable,
11 efficient and indigenous resources, it is the policy of this
12 State to encourage the generation of electricity from renewable
13 and efficient sources and to diversify electricity production on
14 which residents of this State rely in a manner consistent with
15 this section.

16 **Sec. 2. 35-A MRSA §3210, sub-§2, ¶¶B and C**, as repealed and
17 replaced by PL 1999, c. 398, Pt. I, §2, are amended to read:

18 **B. "Eligible Tier 1 eligible resource"** means a source of
19 electrical generation that:

20 (1) Generates power that ~~can-physieally-be~~ is scheduled
21 for delivery and delivered to the control region in
22 which the New England Power Pool, or its successor as
23 approved by the Federal Energy Regulatory Commission,
24 has authority over transmission, or to the Maritimes
25 Control Area; and

26 (2) Is either a tier 1 renewable resource or an
27 efficient resource and does not sell its electrical
28 output to a transmission and distribution utility
29 pursuant to a contract entered into prior to March 1,
30 2000.

31 **C. "Renewable Tier 1 renewable resource"** means a source of
32 electrical generation:

33 (1) That qualifies as a small power production
34 facility under the Federal Energy Regulatory Commission
35 rules, 18 Code of Federal Regulations, Part 292,
36 Subpart B, as in effect on January 1, 1997; or

37 (2) Whose total power production capacity does not
38 exceed 100 megawatts and that relies on one or more of
39 the following:

40 (a) Fuel cells;

41 (b) Tidal power;

- 2 (c) Solar arrays and installations;
- 4 (d) Wind power installations;
- 6 (e) Geothermal installations;
- 8 (f) Hydroelectric generators;
- 10 (g) Biomass generators; or
- 12 (h) Generators fueled by municipal solid waste in
14 conjunction with recycling.

16 **Sec. 3. 35-A MRSA §3210, sub-§2, ¶D** is enacted to read:

18 D. "Tier 2 renewable resource" means a source of electrical
20 generation that generates power that is scheduled for
22 delivery and delivered to the control region in which the
24 New England Power Pool, or its successor as approved by the
26 Federal Energy Regulatory Commission, has authority over
transmission, or to the Maritimes Control Area; that does
not sell its electrical output to a transmission and
distribution utility pursuant to a contract entered into
prior to March 1, 2000; and that satisfies one of the
following criteria:

28 (1) Was built after January 1, 2005 and relies on one
30 or more of the following:

- 32 (a) Fuel cells;
- 34 (b) Tidal or wave power;
- 36 (c) Solar arrays and installations;
- 38 (d) Wind power installations;
- 40 (e) Geothermal installations;
- 42 (f) Hydroelectric generators; or
- 44 (g) Landfill gas installations;

46 (2) Is a hydroelectric generator in which a fish
48 passage system has been installed after January 1, 2005
and that did not have a fish passage system prior to
50 that date. For a hydroelectric generator to qualify
under this subparagraph, the Commissioner of Marine
Resources must certify that the generator had no fish

2 passage in place prior to January 1, 2005 and that the
3 installed fish passage system will facilitate the
4 upstream and downstream passage of anadromous fish. A
5 system involving the trapping and trucking of fish does
6 not qualify as a fish passage system under this
7 subparagraph. A system of fish lifts, pumps or ladders
8 may qualify as a fish passage system if certified by
9 the Commissioner of Marine Resources as effective in
10 facilitating the upstream and downstream passage of
11 anadromous fish at the particular installation; or

12 (3) Is a biomass generator that:

14 (a) Uses as feedstock only biomass harvested using
15 sustainable forest management practices certified
16 by an independent 3rd-party audit in accordance
17 with rules adopted by the commission. The
18 commission shall consult with the Department of
19 Conservation, Maine Forest Service in adopting
20 these rules; and

22 (b) Meets emission standards established by the
23 commission by rule in consultation with the
24 Department of Environmental Protection. Emission
25 standards established by the commission shall, to
26 the extent possible, be equivalent to standards
27 established for similar generators in
28 Massachusetts.

30 Rules adopted under this subparagraph are major
31 substantive rules pursuant to Title 5, chapter 375,
32 subchapter 2-A.

34 **Sec. 4. 35-A MRSA §3210, sub-§3,** as amended by PL 1999, c.
35 398, Pt. I, §3, is further amended to read:

36
37 **3. Portfolio requirements.** As a condition of licensing
38 pursuant to section 3203, each competitive electricity provider
39 in this State must demonstrate in a manner satisfactory to the
40 commission that ~~no less than 30% of its portfolio of supply~~
41 ~~sources for retail electricity sales in this State is accounted~~
42 ~~for by eligible resources. If a competitive electricity provider~~
43 ~~represents to a customer that the provider is selling to the~~
44 ~~customer a portfolio of supply sources that includes more than~~
45 ~~30% eligible resources, the resources necessary to supply more~~
46 ~~than 30% of that customer's load may not be applied to meet the~~
47 ~~aggregate 30% portfolio requirement. Rules adopted under this~~
48 ~~subsection are major substantive rules pursuant to Title 5,~~
49 ~~chapter 375, subchapter II-A.:~~

2 A. No less than 30% of its portfolio of supply sources for
3 retail electricity sales in this State is accounted for by
4 tier 1 eligible resources. This requirement is referred to
5 in this section as "the Tier 1 Requirement"; and

6 B. No less than the following percentages of its portfolio
7 of supply sources for retail electricity sales in this State
8 are accounted for by tier 2 renewable resources:

10 (1) Between September 1, 2005 and August 31, 2006, 2%;

12 (2) Between September 1, 2006 and August 31, 2007, 2.5%;

14 (3) Between September 1, 2007 and August 31, 2008, 3%;

16 (4) Between September 1, 2008 and August 31, 2009, 3.5%;

18 (5) Between September 1, 2009 and August 31, 2010, 4%;

20 (6) Between September 1, 2010 and August 31, 2011, 4.5%;

22 (7) Between September 1, 2011 and August 31, 2012, 5%;

24 (8) Between September 1, 2012 and August 31, 2013, 5.5%;

26 (9) Between September 1, 2013 and August 31, 2014, 6%;

28 (10) Between September 1, 2014 and August 31, 2015,
30 6.5%; and

32 (11) After August 31, 2015, 7%.

34 This requirement is referred to in this section as "the Tier
35 2 Requirement."

36 If a competitive electricity provider represents to a customer
37 that the provider is selling to the customer a portfolio of
38 supply sources that exceeds the Tier 1 Requirement or the Tier 2
39 Requirement, the resources necessary to supply that excess may
40 not be applied to meet the aggregate Tier 1 Requirement or
41 aggregate Tier 2 Requirement.

42 The commission shall allow competitive electricity providers to
43 satisfy the requirements of this subsection through the use of
44 renewable credits if the commission determines that a reliable
45 system of trading exists for such credits.

46 Rules adopted under this subsection are major substantive rules
47 pursuant to Title 5, chapter 375, subchapter 2-A.

50

2 **Sec. 5. 35-A MRSA §3210, sub-§4**, as amended by PL 1999, c.
398, Pt. I, §3, is repealed.

4 **Sec. 6. 35-A MRSA §3210, sub-§4-A** is enacted to read:

6 **4-A. Alternative compliance payments; Renewable Power**
7 **Fund.** A competitive electricity provider may satisfy any unmet
8 Tier 1 Requirement or Tier 2 Requirement by making alternative
9 compliance payments pursuant to this subsection. The payment to
10 meet any unmet Tier 1 Requirement is calculated by multiplying
11 \$25 by the number of unmet megawatt hours. The payment to meet
12 any unmet Tier 2 Requirement is calculated by multiplying \$50 by
13 the number of unmet megawatt hours.

14 There is established the Renewable Power Fund. The fund is a
15 nonlapsing fund administered by the commission to support the
16 policies of this section. All alternative compliance payments
17 must be deposited in the fund. The commission shall disburse
18 money in the fund to tier 2 renewable resources in a manner that
19 supports the policies, goals and objectives of this section. The
20 commission shall adopt rules governing the disbursement of money
21 from the fund.

22 Rules adopted under this subsection are major substantive rules
23 pursuant to Title 5, chapter 375, subchapter 2-A.

24 **Sec. 7. 35-A MRSA §3210, sub-§6**, as enacted by PL 1999, c.
25 372, §2, is amended to read:

26 **6. Renewable Resource Research and Development Fund.** There
27 is established the Renewable Resource Research and Development
28 Fund, referred to in this subsection as the "fund." The fund is
29 a nonlapsing fund administered by the State Planning Office. All
30 funds collected by the commission pursuant to subsection 5 must
31 be deposited in the fund for distribution by the State Planning
32 Office in accordance with subsection 5. The State Planning
33 Office may seek and accept funding for the program established
34 pursuant to subsection 5 from other sources, public or private.
35 Any funds accepted for use in the program established pursuant to
36 subsection 5 must be deposited in the fund.

37 **Sec. 8. 35-A MRSA §3212, sub-§4-A**, as enacted by PL 2003, c.
38 665, §2, is further amended to read:

39 **4-A. Renewables; hedging.** The commission shall adopt rules
40 establishing standards and procedures for incorporating renewable
41 resources that are constructed after March 1, 2004 into
42 standard-offer service. The rules must provide for the
43 incorporation of such resources if the commission finds that the
44 incorporation will reduce the risk of price volatility, offer an
45

2 effective hedging strategy and provide a competitively priced
supply option. The commission may enter into or require
4 standard-offer providers chosen by a competitive bidding process
to enter into contracts with appropriate terms in order to
6 achieve the purposes of this subsection consistent with the
legislative findings established in chapter 34 and rules adopted
pursuant to this subsection. For purposes of this subsection,
8 "renewable resources" has the same meaning as "Tier 1 renewable
resource" in section 3210, subsection 2, paragraph C. Rules
10 adopted pursuant to this subsection are major substantive rules,
as defined in Title 5, chapter 375, subchapter 2-A, and must be
12 submitted to the Legislature for review by March 1, 2005.

14 SUMMARY

16 This bill amends the eligible resource portfolio requirement
for competitive electricity providers. The bill does the
18 following.

20 1. It modifies the current portfolio requirement by
22 disqualifying a generator that sells its electrical output to a
transmission and distribution utility.

24 2. It establishes a "Tier 2 Requirement," which requires
26 that a certain percentage of a competitive electricity provider's
portfolio be supplied by one of the following: generators built
28 after January 1, 2005 that use certain renewable resources;
hydroelectric generators that install adequate fish passage
30 systems after January 1, 2005; or biomass generators that burn
biomass harvested using sustainable forest management practices
32 and that meet certain emission standards. The requirement is
initially 2% and increases by 0.5% each year until it reaches
34 7%. A generator that sells its electrical output to a
transmission and distribution utility is not qualified to meet
36 this requirement.

38 3. It requires that any resource used to satisfy the
portfolio requirements be scheduled for delivery and delivered to
40 the New England Power Pool region or to the Maritimes Control
Area.

42 4. It authorizes the Public Utilities Commission to allow
44 the portfolio requirements to be met through the use of renewable
credits.

46 5. It allows the portfolio requirements to be satisfied
48 through alternative compliance payments.

2 6. It establishes a fund into which all alternative
compliance payments are paid and from which disbursements are
4 made by the Public Utilities Commission to resources that qualify
to meet the Tier 2 Requirement.