

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 1836

S.P. 654

April 5, 2007

**An Act To Save Money for Maine Energy Consumers through
Enhanced Energy Efficiency**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.
Cosponsored by Representative BLISS of South Portland.

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

2 **Sec. 1. 35-A MRSA §3153-A, sub-§4** is enacted to read:

3 4. In any general rate design case, pending on or initiated after January 1, 2007, the
4 commission shall adopt provisions for severing the link between utility sales and earnings
5 consistent with the provisions of section 3195, subsection 1.

6 **Sec. 2. 35-A MRSA §3195, sub-§1**, as amended by PL 1999, c. 398, Pt. A, §71
7 and as affected by §§104 and 105, is further amended to read:

8 **1. Rate-adjustment mechanisms.** This Title may not be construed to prohibit the
9 commission from or to restrict the commission in establishing or authorizing any
10 reasonable rate-adjustment mechanisms to promote efficiency in transmission and
11 distribution utility operations and least-cost planning. ~~Rate-adjustment mechanisms may~~
12 ~~include, but are not limited to:~~ In order to ensure that the incentives offered to electric
13 transmission and distribution utilities are aligned with customer interests in reducing
14 energy costs through increased energy efficiency and demand reduction resources, the
15 commission shall adopt provisions for severing the link between utility sales and
16 earnings. On or after the issuance of a final decision in a proceeding on amendments to
17 rate schedules for any electric transmission and distribution utility, but not later than
18 January 1, 2009, any electricity or natural gas distribution rate energy adjustment clause
19 approved by the commission for an electric or natural gas company must include a
20 provision designed to allow the electric or natural gas company to charge or reimburse
21 customers for any under-recovery or over-recovery of overhead and fixed costs due solely
22 to the deviation of actual retail sales of electricity or natural gas from projected retail
23 sales of electricity or natural gas. The provision may be based on changes to either total
24 retail sales or per customer retail sales. Additional rate adjustments may also include:

25 ~~A. Decoupling of utility profits from utility sales through revenue reconciliation;~~

26 ~~B. Reconciliation of actual revenues or costs with projected revenues or costs, either~~
27 ~~on a total or per customer basis;~~

28 ~~C. Adjustment of revenues based on reconciled, indexed or forecasted costs; and~~

29 ~~D. Positive or negative financial incentives for efficient operations.~~

30 **Sec. 3. 35-A MRSA §3210-D, first ¶**, as enacted by PL 2005, c. 677, Pt. C, §1, is
31 amended to read:

32 The commission shall adopt by rule a long-term plan for electric resource adequacy
33 for this State to ensure grid reliability and the provision or availability of electricity to
34 consumers at the lowest cost. To help reduce energy costs of consumers in this State by
35 the maximum amount possible, the commission shall hold an uncontested docket in
36 which interested parties may submit comments and shall establish by separate order
37 efficiency investment strategies, consistent with the long-term plan and not otherwise
38 directly allocable, by which to realize through distribution rates all available energy
39 efficiency and demand reduction resources that are cost-effective, reliable and feasible in

1 this State. Investments directed pursuant to this section may be deposited in the
2 conservation program fund established under section 3211-A, subsection 5.

3 **Sec. 4. 35-A MRSA §3211-A, sub-§2, ¶A**, as amended by PL 2005, c. 569, §1,
4 is further amended to read:

- 5 A. The commission shall consider, without limitation, conservation programs that:
- 6 (1) Increase consumer awareness of cost-effective options for conserving energy;
- 7 (2) Create more favorable market conditions for the increased use of efficient
8 products and services;
- 9 (3) Promote sustainable economic development and reduced environmental
10 damage; ~~and~~
- 11 (4) Reduce the price of electricity over time for all consumers by achieving
12 reductions in demand for electricity during peak use periods; ~~and~~
- 13 (5) Reduce total costs paid by electricity consumers in this State by increasing
14 the efficiency with which electricity is consumed in this State.

15 **Sec. 5. 35-A MRSA §3211-A, sub-§2, ¶B**, as enacted by PL 2001, c. 624, §4, is
16 amended to read:

- 17 B. The commission shall:
- 18 ~~(1) Target at least 20% of available funds to programs for low income residential~~
19 ~~consumers, as defined by the commission by rule;~~
- 20 ~~(2) Target at least 20% of available funds to programs for small business~~
21 ~~consumers, as defined by the commission by rule; and~~
- 22 (3) To the greatest extent practicable, apportion ~~remaining~~ available funds
23 assessed under this section among customer groups and geographic areas in a
24 manner that allows each customer group to receive funding approximately
25 proportionate to its contribution to total assessments under this section and allows
26 all other customers to have a reasonable opportunity to participate in one or more
27 conservation programs.

28 **Sec. 6. 35-A MRSA §3211-A, sub-§2, ¶C**, as enacted by PL 2001, c. 624, §4, is
29 repealed and the following enacted in its place:

30 C. The Energy Efficiency Stakeholder Board shall advise and assist the commission
31 and other agencies, utilities or other publicly directed energy efficiency program
32 administrators in the design, implementation and periodic review of a comprehensive
33 energy savings plan to implement cost-effective energy conservation programs and
34 market transformation initiatives. The plan must:

35 (1) Provide the overall energy strategy for all energy efficiency and conservation
36 programs in this State funded by or through, but not limited to:

37 (a) The minimum conservation program assessment in section 3211-A,
38 subsection 4;

- 1 (b) Any proceeds from allowances of a regional greenhouse gas initiative, or
- 2 a similar regulatory system, that generates proceeds from the sale of
- 3 emissions allowances;
- 4 (c) Payments from the regional forward capacity markets;
- 5 (d) Natural gas, home heating oil or other home heating fuel assessments,
- 6 taxes, fees or contributions;
- 7 (e) Contracts for energy efficiency used to satisfy standard offer service;
- 8 (f) Long-term contracting of demand-side capacity resources;
- 9 (g) State and federally funded weatherization programs; and
- 10 (h) Any rate-based investments directed by the commission to realize cost-
- 11 effective energy efficiency and demand reduction;
- 12 (2) Be updated at least once every 3 years. Each program contained in the
- 13 comprehensive energy savings plan must be voted on by the Energy Efficiency
- 14 Stakeholder Board prior to submission to the commission for approval. Approval
- 15 of the plan and other decisions by the board requires an affirmative vote of at
- 16 least 60% of the members of the board. The Energy Efficiency Stakeholder
- 17 Board shall, as part of its review, examine opportunities to offer joint programs
- 18 providing similar efficiency measures that save more than one fuel resource or
- 19 otherwise to coordinate programs targeted at saving more than one fuel resource.
- 20 Any costs for joint programs must be allocated equitably among the energy
- 21 efficiency and conservation programs; and
- 22 (3) Be approved by the commission.

23 **Sec. 7. 35-A MRSA §3211-A, sub-§2, ¶F**, as enacted by PL 2001, c. 624, §4, is
 24 amended to read:

25 F. The Energy Efficiency Stakeholder Board and the commission shall monitor and
 26 evaluate the delivery of conservation programs by service providers and assess the
 27 cost-effectiveness of programs in meeting the objectives and overall strategy
 28 established by the ~~commission~~ comprehensive energy savings plan under section
 29 3211-A, subsection 2, paragraph C.

30 Strategies and programs included in the comprehensive energy savings plan must be
 31 screened through cost-effectiveness testing that compares the value and payback
 32 period of program benefits to program costs to ensure that programs are designed to
 33 obtain energy savings and system benefits the value of which is greater than the costs
 34 of the programs. Cost-effectiveness for each strategy or program must be reviewed
 35 annually, or otherwise as is practicable, and if a strategy or program fails the cost-
 36 effectiveness test as part of the review process, it must either be modified to pass the
 37 test or be terminated.

38 **Sec. 8. 35-A MRSA §3211-A, sub-§2, ¶H**, as enacted by PL 2001, c. 624, §4, is
 39 amended to read:

40 H. The commission shall secure sufficient technical and administrative expertise to
 41 carry out its responsibilities pursuant to this section by:

- 1 (1) Contracting with appropriate entities with relevant expertise and experience;
- 2 (2) ~~Establishing one or more advisory groups composed of persons with relevant~~
- 3 ~~expertise and experience; or~~ No later than October 1, 2007, establishing,
- 4 appointing and convening the Energy Efficiency Stakeholder Board, which must
- 5 include one representative of each of the following:
- 6 (a) A statewide manufacturing association;
- 7 (b) A statewide business association;
- 8 (c) A chamber of commerce;
- 9 (d) Residential customers;
- 10 (e) Low-income customers;
- 11 (f) An environmental advocacy organization;
- 12 (g) An environmental organization knowledgeable in energy efficiency and
- 13 energy procurement programs;
- 14 (h) The Office of the Public Advocate;
- 15 (i) The Department of Environmental Protection; and
- 16 (j) The Attorney General.

17 Each board member must have some relevant background or experience in

18 energy technologies, markets or policy. The commission and each of the electric

19 and natural gas distribution companies operating in this State are entitled to have

20 a nonvoting, ex officio member on the board. Representatives serve for a term of

21 4 years and may be reappointed. Expenditures by the Energy Efficiency

22 Stakeholder Board for the retention of expert consultants and reasonable

23 administrative costs must be recovered in distribution rates and from other

24 sources. Such consultants may not be employed by or have any contractual

25 relationship with an electric or natural gas distribution company. Such costs may

26 not exceed 5% of the total costs of energy efficiency and conservation plans.

27 Costs of independent expert services must be provided for in the comprehensive

28 energy savings plan; or

29 (3) ~~Any~~ By any other reasonable means developed by the commission.

30 **Sec. 9. 35-A MRSA §3211-A, sub-§4**, as amended by PL 2005, c. 459, §1, is

31 further amended to read:

32 **4. Funding level.** The commission shall assess transmission and distribution utilities

33 to collect funds for a minimum base level of conservation programs and administrative

34 costs in accordance with this subsection. The amount of all assessments by the

35 commission under this subsection plus expenditures of a transmission and distribution

36 utility associated with prior conservation efforts must result in total conservation

37 expenditures ~~by each transmission and distribution utility~~ that:

38 A. Are based on the relevant characteristics of the transmission and distribution

39 utility's service territory, including the needs of customers;

- 1 B. ~~Do not exceed~~ Are fixed at a rate of .145 cent per kilowatt-hour; and
2 ~~C. Except as provided in subsection 7 A, are no less than 0.5% of the total~~
3 ~~transmission and distribution revenues of the transmission and distribution utility;~~
4 ~~and~~
5 D. Are proportionally equivalent on a per-kilowatt-hour basis to the total
6 conservation expenditures of other transmission and distribution utilities, unless the
7 commission finds that a different amount is justified.

8 **SUMMARY**

9 This bill directs the Public Utilities Commission to establish the Energy Efficiency
10 Stakeholder Board to advise and assist the commission, other agencies, utilities and
11 publicly directed energy efficiency program administrators in the design, implementation
12 and review of a comprehensive energy savings plan to implement cost-effective energy
13 conservation programs and market transformation initiatives. The bill sets an assessment
14 rate on transmission and distribution utilities to fund conservation programs and specifies
15 the method of apportionment of funds collected for conservation programs among groups
16 of customers. The bill amends the laws governing rate-adjustment mechanisms for
17 transmission and distribution utilities as they relate to utility sales and earnings.