

MAINE STATE LEGISLATURE

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No. 1450

H.P. 1006

House of Representatives, April 8, 2009

An Act To Establish the Renewable Energy Resources Program

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ADAMS of Portland.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: BERRY of Bowdoinham, GOODE of Bangor, HINCK of Portland, MARTIN
of Eagle Lake, PIEH of Bremen, Speaker PINGREE of North Haven, PIOTTI of Unity,
WATSON of Bath.

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

2 Sec. 1. 35-A MRSA c. 36 is enacted to read:

3 **CHAPTER 36**

4 **RENEWABLE ENERGY RESOURCES**

5
6 **§3601. Renewable energy resources**

7 **1. Program established.** The commission shall by rule establish a renewable energy
8 resources program in order to encourage the rapid and sustainable development of
9 renewable energy resources and technology for environmentally healthy generation of
10 electricity and to decrease the demand for fossil fuel. In establishing the program, the
11 commission shall concentrate on electricity generation that contributes no net carbon
12 additions to the atmosphere.

13 **2. Standards of program.** The commission shall establish standards for the
14 interconnection of eligible electric generators with the distribution systems of grid
15 operators; adopt standard contracts for use; establish rates, charges, surcharges and
16 incentives; and establish a program review process for this program as described in this
17 chapter.

18 **§3602. Definitions**

19 As used in this chapter, unless the context indicates otherwise, the following terms
20 have the following meanings.

21 **1. Eligible electric generator.** "Eligible electric generator" means a system for the
22 generation of electricity that contributes no net carbon additions to the atmosphere, is no
23 greater than 20 megawatts in size, is majority owned by a person or entity that owns less
24 than 20 megawatts of electricity generating capacity in the State and uses the following
25 renewable energy resources in this State:

26 A. Solar photovoltaic panels or solar thermal or concentrating solar systems;

27 B. Wind power;

28 C. Hydroelectric power;

29 D. Generators fueled by methane from sewage treatment facilities, landfills or
30 agricultural waste;

31 E. Generators fueled by combustion of biomass; and

32 F. Tidal power projects.

33 **2. Grid operator.** "Grid operator" means an entity that oversees the delivery of
34 electricity by means of an interconnected system.

1 3. Net carbon addition. "Net carbon addition" means an addition of carbon to the
2 atmospheric carbon cycle that was previously sequestered in a form of fossil fuel or any
3 waste, product or byproduct of a fossil fuel.

4 4. Renewable energy opportunity county. "Renewable energy opportunity county"
5 means a county where the average weekly wages are at or below the mean average
6 weekly wages for the State as defined by the average of the 10 most recent years of
7 Department of Labor statistics.

8 5. Utilized public property. "Utilized public property" means:

9 A. A building or parking lot owned by the State or a county or municipal
10 government;

11 B. A school or school property that obtains the majority of its funding through
12 taxpayer dollars; or

13 C. Other property owned by a governmental unit that is not managed as a historic
14 site, public reserved land or state park.

15 6. Value added. "Value added" means a monetary total of all labor and materials
16 added to a product at each stage prior to sale to a wholesaler or consumer.

17 §3603. Connection to grid operators' distribution system

18 A grid operator shall connect an eligible electric generator to the existing electricity
19 distribution system within 90 days of a request by an eligible electric generator.

20 1. Interconnection standards. The commission by rule shall establish reasonable
21 standards for the interconnection of eligible electric generators with the transmission and
22 distribution systems of grid operators. The standards must be consistent with generally
23 accepted industry practices and guidelines and must be established to ensure the
24 reliability of electric service and the safety of customers, grid operators' employees and
25 the general public.

26 2. Costs. The costs associated with the interconnection must be included in the rates
27 under section 3605 as long as electric transmission lines already exist at the location of or
28 within 100 feet of the eligible electric generator. If the eligible electric generator is more
29 than 100 feet from existing electric transmission lines, the eligible electric generator bears
30 the cost of interconnection.

31 3. Fines. A grid operator that fails to connect an eligible electric generator to the
32 grid operator's distribution system is subject to fines of not more than \$100 per day that
33 the grid operator is in violation of this subsection.

34 §3604. Standard contract

35 The commission shall draft and make available a standard contract, with a duration of
36 not less than 20 years, for electricity purchases by a grid operator from an eligible electric
37 generator.

1 1. Classes. The contract must set the prices to be paid for each kilowatt-hour
2 generated by each class, as described in section 3605, subsection 1, of eligible electric
3 generator.

4 2. Deadline. The commission shall adopt rules establishing the terms and conditions
5 for the standard contract no later than January 1, 2010.

6 3. Contract. On request of an eligible electric generator, a grid operator must enter
7 into a power purchase agreement by the standard contract and at the proper classification
8 to purchase all electricity from that eligible electric generator for a period of not less than
9 20 years.

10 4. Transferable. Executed contracts must be site specific and transferable.

11 §3605. Rates and terms

12 The commission shall set just and reasonable rates, as modified under sections 3603
13 and 3607, sufficient to provide revenues to operate and to attract necessary capital and
14 investment for eligible electric generators to be paid by electric utilities to eligible electric
15 generators under the standard contract under section 3604.

16 1. Classes. The rates must establish specific classes of eligible electric generators,
17 both by type of renewable resource used and by amount of annual electrical output, and
18 for specific time periods of the contract's duration.

19 2. Rates. The commission shall establish rates to provide revenue for the following
20 purposes:

21 A. To be consistent with the requirements of chapter 3;

22 B. To pay for current expenses for operating and maintaining the generating system;

23 C. To provide funding for the usual and regular renewals, replacement and repair of
24 the generating system;

25 D. To pay the annual principal and interest due of loans for the construction of the
26 generating system;

27 E. To provide for an annual contribution to a contingency reserve fund up to an
28 amount equal to 25% of the operational budget for the generating system;

29 F. To pay for the use of existing or new transmission and distribution lines;

30 G. To make up for the avoided cost, if any, of building or purchasing additional
31 nonrenewable generated electricity;

32 H. To pay for any and all other reasonable costs and expenses related to generating
33 electricity by the eligible electric generator;

34 I. To pay a minimum annual return of at least 8% to the eligible electric generator for
35 the first 2 years after January 1, 2010 for all renewable resources except solar power.
36 Thereafter, every 2 years, the commission may reduce the minimum annual return by
37 1%;

1 J. To pay a minimum annual return of at least 8% to solar powered generators for the
2 first 2 years after January 1, 2010 for all installations made over existing parking lots
3 in existence for at least 5 years and mounted onto roofs and buildings. Thereafter,
4 every 2 years, the commission may reduce the minimum annual return by 1%; and

5 K. To pay a reasonable annual return of not more than 4% for the first 2 years after
6 January 1, 2010 to all other eligible solar powered generators. Thereafter, every 2
7 years, the commission may reduce the minimum annual return by 1%.

8 **3. Incentives.** The commission shall include the following incentives in each class.

9 A. An eligible electric generator certified with at least 70% of the value added in the
10 State, exclusive of installation costs, must receive a 5% premium in addition to the
11 rates under section 3605. This incentive must be paid in addition to all other
12 incentives included in this section.

13 B. Any eligible electric generator, with at least 50% value added in a renewable
14 energy opportunity county, must receive a 5% premium in addition to the rates under
15 section 3605. This incentive must be paid in addition to all other incentives included
16 in this section.

17 C. An eligible electric generator that is installed on utilized public property must
18 receive a 5% premium in addition to the rates under section 3605 if the net income
19 generated from such production is used for governmental purposes and can be
20 demonstrated to have reduced taxes. This incentive must be paid in addition to all
21 other incentives included in this section.

22 D. An eligible electric generator that uses naturally produced methane from manure,
23 decaying biomass or from landfills must receive a 5% premium in addition to the
24 rates under section 3605. This incentive must be paid in addition to all other
25 incentives included in this section.

26 **4. Proceeding.** The commission shall adopt rules by July 1, 2010 for the design of
27 the rates under this section.

28 **§3606. Surcharge**

29 The commission shall, after notice and hearing, biannually establish a renewable
30 energy factor that must be a nonbypassable surcharge payable by every customer of a grid
31 operator. The surcharge must be payable by all customer classes. The commission shall
32 set the surcharge at a level sufficient to pay the costs of electricity purchased under
33 section 3605 and any interconnection costs under section 3603. For the purpose of this
34 section, "nonbypassable surcharge" means charges applied to all customer billings in a
35 given region whether they receive service from a local utility or from a competitive
36 supplier. These charges include transition charges, access charges, regional levies and
37 taxes.

38 **§3607. Review**

39 The commission shall review the rates established in section 3605 by January 1st and
40 once every 2 years thereafter and adjust those rates for new contracts as necessary to
41 account for inflation, assist in the profitable development of eligible electric generators,

1 prevent excessive profits for eligible electric generators and prevent unnecessary costs to
2 ratepayers. The commission shall reduce the rates in section 3605 to reflect any federal or
3 state subsidies, tax credits or other incentives that an eligible electric generator may
4 receive.

5 **§3608. Report**

6 By January 1, 2010, January 1, 2011 and once every 4 years thereafter, the
7 commission shall file a report with the Governor and Legislature that must include the
8 following:

9 **1. Kilowatt hours.** The kilowatt-hours of electricity purchased from eligible electric
10 generators;

11 **2. Number.** The number of new eligible electric generators in the State and the
12 environmental effects of the addition of those generators;

13 **3. Recommendations.** Recommendations from the public or the commission for
14 legislation and changes to the rates and the terms of the standard contract in the public
15 interest; and

16 **4. Actions.** Actions taken by the commission to implement this chapter.

17 Eligible electric generators shall, upon request, provide the commission any
18 information that may be relevant to the commission performing its duties under this
19 chapter.

20 **§3609. Rules**

21 The commission shall adopt rules to implement this chapter. Rules adopted under this
22 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

23 **SUMMARY**

24 This bill requires the Public Utilities Commission to establish by rule a renewable
25 energy resources program to encourage the rapid and sustainable development of
26 renewable energy resources and technology for environmentally healthy generation of
27 electricity. It requires that utilities purchase renewably produced electricity from all
28 qualified suppliers. It sets the rate that electric utilities must pay for such power. It sets
29 the rate that electric utilities must pay for such powers. It requires that utilities enter into a
30 standard contract with all renewable energy suppliers for a set term. It establishes for the
31 Public Utilities Commission management and oversight responsibilities. It reserves to the
32 Legislature the power to periodically review and revise the rates and the terms of the
33 standard contract in the public interest.