

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 956

S.P. 302

In Senate, March 8, 2011

An Act To Improve Maine's Renewable Portfolio Standard

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SHERMAN of Aroostook.
Cosponsored by Senators: THOMAS of Somerset, WHITTEMORE of Somerset,
Representative: CRAY of Palmyra.

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

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

4 **1. Policy.** In order to ensure an adequate and reliable supply of electricity for Maine
5 residents and to encourage the use of renewable, low-carbon-emitting, efficient and
6 indigenous resources, it is the policy of this State to encourage the generation of
7 electricity from renewable, low-carbon-emitting and efficient sources and to diversify
8 electricity production on which residents of this State rely in a manner consistent with
9 this section.

10 **Sec. 2. 35-A MRSA §3210, sub-§2, ¶B**, as repealed and replaced by PL 1999, c.
11 398, Pt. I, §2, is amended to read:

12 B. "Eligible resource" means a source of electrical generation that:

13 (1) Generates power that can physically be delivered to the control region in
14 which the New England Power Pool, or its successor as approved by the Federal
15 Energy Regulatory Commission, has authority over transmission, or to the
16 Maritimes Control Area; and

17 (2) Is ~~either~~ a renewable resource, a low-carbon-emitting resource or an efficient
18 resource.

19 **Sec. 3. 35-A MRSA §3210, sub-§2, ¶B-3**, as enacted by PL 2009, c. 542, §3, is
20 amended to read:

21 B-3. "Renewable capacity resource" means a source of electrical generation:

22 (1) Whose total power production capacity ~~does not exceed 100 megawatts and~~
23 ~~relies on one or more of the following:~~

24 (a) Fuel cells;

25 (b) Tidal power;

26 (c) Solar arrays and installations;

27 (d) Geothermal installations;

28 (e) Hydroelectric generators that meet all state, provincial and federal fish
29 passage requirements applicable to the generator; or

30 (f) Biomass generators that are fueled by wood or wood waste, landfill gas
31 or anaerobic digestion of agricultural products, by-products or wastes; or

32 (2) That relies on wind power installations.

33 **Sec. 4. 35-A MRSA §3210, sub-§2, ¶B-4**, as enacted by PL 2009, c. 542, §4, is
34 amended to read:

35 B-4. "New" as applied to any renewable capacity resource or low-carbon-emitting
36 resource means a renewable capacity resource or low-carbon-emitting resource that:

- 1 (1) Has an in-service date after September 1, 2005;
- 2 (2) Was added to an existing facility after September 1, 2005;
- 3 (3) For at least 2 years was not operated or was not recognized by the New
- 4 England independent system operator as a capacity resource and, after September
- 5 1, 2005, resumed operation or was recognized by the New England independent
- 6 system operator as a capacity resource; or
- 7 (4) Was refurbished after September 1, 2005 and is operating beyond its
- 8 previous useful life or is employing an alternate technology that significantly
- 9 increases the efficiency of the generation process.

10 For the purposes of this paragraph, "capacity resource" has the same meaning as in
11 section 3210-C, subsection 1, paragraph A.

12 **Sec. 5. 35-A MRSA §3210, sub-§2, ¶B-5** is enacted to read:

13 B-5. "Low-carbon-emitting energy credit" means a tradable instrument that
14 represents an amount of electricity generated from low-carbon-emitting resources.

15 **Sec. 6. 35-A MRSA §3210, sub-§2, ¶B-6** is enacted to read:

16 B-6. "Low-carbon-emitting resource" means a source of electrical generation that
17 produces or results in low net emissions of carbon dioxide, as determined by the
18 commission by rule. Rules adopted by the commission under this paragraph are
19 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

20 **Sec. 7. 35-A MRSA §3210, sub-§2, ¶C**, as amended by PL 2009, c. 542, §5, is
21 further amended to read:

22 C. "Renewable resource" means a source of electrical generation:

- 23 (1) That qualifies as a small power production facility under the Federal Energy
- 24 Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart
- 25 B, as in effect on January 1, 1997; or
- 26 (2) Whose ~~total~~ power production ~~capacity does not exceed 100 megawatts and~~
27 ~~that~~ relies on one or more of the following:
 - 28 (a) Fuel cells;
 - 29 (b) Tidal power;
 - 30 (c) Solar arrays and installations;
 - 31 (d) Wind power installations;
 - 32 (e) Geothermal installations;
 - 33 (f) Hydroelectric generators;
 - 34 (g) Biomass generators that are fueled by wood or wood waste, landfill gas
 - 35 or anaerobic digestion of agricultural products, by-products or wastes; or
 - 36 (h) Generators fueled by municipal solid waste in conjunction with
 - 37 recycling.

1 **Sec. 8. 35-A MRSA §3210, sub-§3-A**, as corrected by RR 2007, c. 2, §20, is
2 amended to read:

3 **3-A. Portfolio requirements; new renewable capacity resources.** Portfolio
4 requirements for new renewable capacity resources and new low-carbon-emitting
5 resources are governed by this subsection.

6 A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of
7 licensing pursuant to section 3203, each competitive electricity provider in this State
8 must demonstrate in a manner satisfactory to the commission that the percentage of
9 its portfolio of supply sources for retail electricity sales in this State accounted for by
10 new renewable capacity resources or new low-carbon-emitting resources is as
11 follows:

- 12 (1) One percent for the period from January 1, 2008 to December 31, 2008;
- 13 (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- 14 (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- 15 (4) Four percent for the period from January 1, 2011 to December 31, 2011;
- 16 (5) Five percent for the period from January 1, 2012 to December 31, 2012;
- 17 (6) Six percent for the period from January 1, 2013 to December 31, 2013;
- 18 (7) Seven percent for the period from January 1, 2014 to December 31, 2014;
- 19 (8) Eight percent for the period from January 1, 2015 to December 31, 2015;
- 20 (9) Nine percent for the period from January 1, 2016 to December 31, 2016; and
- 21 (10) Ten percent for the period from January 1, 2017 to December 31, 2017.

22 New renewable capacity resources and new low-carbon-emitting resources used to
23 satisfy the requirements of this paragraph may not be used to satisfy the requirements
24 of subsection 3.

25 B. Suspensions of scheduled increases in the portfolio requirements as provided in
26 paragraph A are governed by this paragraph.

27 (1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission
28 determines that investment in new renewable capacity resources or new
29 low-carbon-emitting resources in the preceding 2 calendar years has not been
30 sufficient for competitive electricity providers to meet the portfolio requirements
31 under paragraph A and that the resulting use of renewable energy credits or
32 low-carbon-emitting energy credits pursuant to subsection 8 or the alternative
33 compliance payment mechanism pursuant to subsection 9, or both of these
34 methods, has burdened electricity customers in the State without providing the
35 benefits of new renewable capacity resources or new low-carbon-emitting
36 resources, the commission may suspend all or some of the future scheduled
37 increases in the portfolio requirements under paragraph A.

38 (2) If the commission finds that alternative compliance payments are made
39 pursuant to subsection 9 in 3 consecutive calendar years, the commission shall

1 temporarily suspend all or some of the future scheduled increases in the portfolio
2 requirements under paragraph A.

3 (3) If the commission suspends any scheduled increases in the portfolio
4 requirements under paragraph A pursuant to subparagraph (1) or (2), the
5 commission may resume increases, limited to no more than one percentage point
6 per year over the previous year, in the portfolio requirements after a minimum of
7 one year.

8 C. No later than March 31, 2008 and annually thereafter, the commission shall
9 submit a report regarding the status of new renewable capacity resources and new
10 low-carbon-emitting resources in the State and compliance with the portfolio
11 requirements under paragraph A to the joint standing committee of the Legislature
12 having jurisdiction over utilities and energy matters. The report must include, but is
13 not limited to, a description of new renewable capacity resources and new
14 low-carbon-emitting resources available to meet the portfolio requirements under
15 paragraph A, documentation of the loss of any existing renewable generation capacity
16 or low-carbon-emitting resources in the State, the status of implementation of the ~~new~~
17 ~~renewable capacity resources~~ portfolio requirements of this subsection, including any
18 suspensions pursuant to paragraph B, and recommendations to stimulate investment
19 in new renewable capacity resources and new low-carbon-emitting resources.

20 D. Retail electricity sales pursuant to a supply contract or standard-offer service
21 arrangement executed by a competitive electricity provider that is in effect on the
22 effective date of this subsection is exempt from the requirements of this subsection
23 until the end date of the current term of the supply contract or standard-offer service
24 arrangement.

25 The commission shall adopt rules to implement this subsection. Rules adopted under this
26 subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

27 **Sec. 9. 35-A MRSA §3210, sub-§7**, as amended by PL 2009, c. 329, Pt. B, §1, is
28 further amended to read:

29 **7. Information.** The commission shall inform electricity consumers in this State of
30 the benefits of electricity generated ~~in this State~~ using renewable resources and
31 low-carbon-emitting resources and of the opportunities available ~~in this State~~ to purchase
32 electricity that is generated using those resources, including, but not limited to, the green
33 power offer and other green power supply products and renewable energy credit products
34 certified under section 3212-A. The commission may not promote any renewable
35 resources or low-carbon-emitting resources over others. The commission may apply for,
36 receive and expend grant money from the United States Department of Energy and other
37 government agencies for this purpose. ~~Notwithstanding section 3211-A, subsection 5, the~~
38 ~~commission also may use up to \$100,000 per year from the conservation program fund~~
39 ~~established under section 3211-A, subsection 5 to support the purposes of this subsection.~~
40 The commission may create or cause to be created a brand or logo to identify Maine
41 renewable resources and low-carbon-emitting resources, including the green power offer
42 and other green power supply products and renewable energy credit products certified
43 under section 3212-A, to consumers. The commission shall register any mark or logo
44 created pursuant to this subsection with the United States Patent and Trademark Office or

1 in accordance with Title 10, chapter 301-A, or both. Any brand or logo created pursuant
2 to this subsection may only be used in accordance with the purposes of this subsection as
3 approved by the commission.

4 **Sec. 10. 35-A MRSA §3210, sub-§8**, as amended by PL 2009, c. 329, Pt. A, §2,
5 is further amended to read:

6 **8. Credit trading.** The commission shall allow competitive electricity providers to
7 satisfy the portfolio requirements of subsections 3 and 3-A through the use of renewable
8 energy credits or low-carbon-emitting energy credits if the commission determines that a
9 reliable system of electrical attribute trading exists. When renewable energy credits are
10 used to satisfy the portfolio requirements of subsections 3 and 3-A, the value of a
11 renewable energy credit for electricity generated by a community-based renewable
12 energy project, as defined in section 3602, that is participating in the community-based
13 renewable energy pilot program established in section 3603 and elects the renewable
14 energy credit multiplier under section 3605 is 150% of the amount of the electricity.

15 **Sec. 11. 35-A MRSA §3210, sub-§9**, as amended by PL 2009, c. 565, §4 and
16 affected by §9, is further amended to read:

17 **9. Alternative compliance payment; portfolio requirements.** The commission
18 shall allow competitive electricity providers to satisfy the portfolio requirements ~~for new~~
19 ~~renewable capacity resources~~ under subsection 3-A through an alternative compliance
20 payment mechanism in accordance with this subsection.

21 A. The commission shall set the alternative compliance payment rate by rule and
22 shall publish the alternative compliance payment rate by January 31st of each year. In
23 setting the rate, the commission shall take into account prevailing market prices,
24 standard-offer service prices for electricity, reliance on alternative compliance
25 payments to meet the requirements of subsection 3-A and investment in new
26 renewable capacity resources and new low-carbon-emitting resources in the State
27 during the previous calendar year.

28 B. The commission shall collect alternative compliance payments made by
29 competitive electricity providers and shall deposit all funds collected under this
30 paragraph in the Renewable Resource Fund established under section 10121,
31 subsection 2 to be used to fund research, development and demonstration projects
32 relating to renewable energy technologies.

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

35 SUMMARY

36 This bill modifies the portfolio requirements that competitive electricity providers
37 must satisfy in selling electricity in this State. This bill removes all size limits on
38 renewable resources eligible to meet the portfolio requirements. This bill also adds
39 low-carbon-emitting resources to the list of resources that are eligible to meet the
40 portfolio requirements.