

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

---

Legislative Document

No. 1263

H.P. 863

House of Representatives, April 7, 2015

---

**An Act To Create Jobs and Promote Investment in Maine's  
Economy through Increased Access to Solar Energy**

---

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative GIDEON of Freeport.  
Cosponsored by Senator SAVIELLO of Franklin and  
Representatives: BLACK of Wilton, CAMPBELL of Orrington, DEVIN of Newcastle,  
GROHMAN of Biddeford, HUBBELL of Bar Harbor, MALABY of Hancock, PIERCE of  
Falmouth, POULIOT of Augusta.

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

2 **Sec. 1. 35-A MRSA §3209-A**, as enacted by PL 2011, c. 262, §1, is repealed and  
3 the following enacted in its place:

4 **§3209-A. Net energy billing**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
6 following terms have the following meanings.

7 A. "Eligible facility" means an electric generating facility that uses a wind power  
8 installation under section 3210, subsection 2, paragraph B-3, subparagraph (2) or a  
9 power system producing heat and power with a total efficiency of not less than 65%  
10 as defined by rule.

11 B. "Net energy billing" means a billing and metering practice under which a  
12 customer is billed on the basis of net energy over the billing period taking into  
13 account accumulated unused kilowatt-hour credits from the previous billing period.

14 C. "Shared ownership" means ownership interest of an eligible facility by multiple  
15 persons who have distinct billing accounts with a transmission and distribution  
16 utility.

17 **2. Net energy billing.** A customer of a transmission and distribution utility may  
18 elect to engage in net energy billing.

19 A. An eligible facility located in an investor-owned transmission and distribution  
20 utility territory may not have an installed capacity greater than one megawatt. An  
21 eligible facility located in a consumer-owned transmission and distribution utility  
22 territory may not have an installed capacity greater than 100 kilowatts unless the  
23 consumer-owned transmission and distribution utility allows an eligible facility with  
24 an installed capacity of up to one megawatt to be eligible for net energy billing.

25 B. An eligible facility with shared ownership is eligible for net energy billing. The  
26 number of customers who participate in a single shared ownership eligible facility  
27 must allow for economies of scale in installation costs, except that the number may  
28 not be less than 50.

29 **3. Rules.** The commission may adopt rules to implement this section. Rules  
30 adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
31 chapter 375, subchapter 2-A.

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

33 A-2. "Alternative compliance payment rate for solar power" means a certain dollar  
34 amount per megawatt-hour set pursuant to subsection 9 that a competitive electricity  
35 provider may pay to the commission to satisfy the portfolio requirements of  
36 subsection 3-B.

37 **Sec. 3. 35-A MRSA §3210, sub-§2, ¶B-4**, as amended by PL 2011, c. 413, §1, is  
38 further amended to read:

1 B-4. "New" as applied to any renewable capacity resource except a renewable  
2 capacity resource that relies on solar energy means a renewable capacity resource  
3 that:

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

13 For the purposes of this paragraph, "capacity resource" has the same meaning as in  
14 section 3210-C, subsection 1, paragraph A. For the purposes of this paragraph, "to  
15 refurbish" means to make an investment in equipment or facilities, other than for  
16 routine maintenance and repair, to renovate, reequip or restore the renewable capacity  
17 resource.

18 **Sec. 4. 35-A MRSA §3210, sub-§2, ¶¶B-5 and D** are enacted to read:

19 B-5. "New" as applied to any renewable capacity resource that relies on solar energy  
20 means a renewable capacity resource that has an in-service date after October 1,  
21 2015.

22 D. "Solar renewable energy credit" means a tradable instrument that represents an  
23 amount of electricity as measured at the power inverter that is generated from a  
24 renewable capacity resource that relies on solar energy.

25 **Sec. 5. 35-A MRSA §3210, sub-§3-A**, as corrected by RR 2007, c. 2, §20, is  
26 amended to read:

27 **3-A. Portfolio requirements; new renewable capacity resources.** Portfolio  
28 requirements for new renewable capacity resources are governed by this subsection.

29 A. ~~Except as provided in paragraph B, beginning~~ Beginning January 1, 2008, as a  
30 condition of licensing pursuant to section 3203, each competitive electricity provider  
31 in this State must demonstrate in a manner satisfactory to the commission that the  
32 percentage of its portfolio of supply sources for retail electricity sales in this State  
33 accounted for by new renewable capacity resources is as follows:

- 34 (1) One percent for the period from January 1, 2008 to December 31, 2008;
- 35 (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- 36 (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- 37 (4) Four percent for the period from January 1, 2011 to December 31, 2011;
- 38 (5) Five percent for the period from January 1, 2012 to December 31, 2012;

- 1 (6) Six percent for the period from January 1, 2013 to December 31, 2013;  
2 (7) Seven percent for the period from January 1, 2014 to December 31, 2014;  
3 (8) Eight percent for the period from January 1, 2015 to December 31, 2015;  
4 (9) Nine and one-quarter percent for the period from January 1, 2016 to  
5 December 31, 2016; ~~and~~  
6 (10) Ten and one-half percent for the period from January 1, 2017 to December  
7 31, 2017;  
8 (11) Ten and three-fourths percent for the period from January 1, 2018 to  
9 December 31, 2018;  
10 (12) Eleven percent for the period from January 1, 2019 to December 31, 2019;  
11 (13) Eleven and one-half percent for the period from January 1, 2020 to  
12 December 31, 2020;  
13 (14) Twelve percent for the period from January 1, 2021 to December 31, 2021;  
14 and  
15 (15) Twelve and one-half percent for the period from January 1, 2022 to  
16 December 31, 2022 and for every year thereafter.

17 New renewable capacity resources used to satisfy the requirements of this paragraph  
18 may not be used to satisfy the requirements of subsection 3.

19 ~~B. Suspensions of scheduled increases in the portfolio requirements as provided in~~  
20 ~~paragraph A are governed by this paragraph.~~

21 ~~(1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission~~  
22 ~~determines that investment in new renewable capacity resources in the preceding~~  
23 ~~2 calendar years has not been sufficient for competitive electricity providers to~~  
24 ~~meet the portfolio requirements under paragraph A and that the resulting use of~~  
25 ~~renewable energy credits pursuant to subsection 8 or the alternative compliance~~  
26 ~~payment mechanism pursuant to subsection 9, or both of these methods, has~~  
27 ~~burdened electricity customers in the State without providing the benefits of new~~  
28 ~~renewable capacity resources, the commission may suspend all or some of the~~  
29 ~~future scheduled increases in the portfolio requirements under paragraph A.~~

30 ~~(2) If the commission finds that alternative compliance payments are made~~  
31 ~~pursuant to subsection 9 in 3 consecutive calendar years, the commission shall~~  
32 ~~temporarily suspend all or some of the future scheduled increases in the portfolio~~  
33 ~~requirements under paragraph A.~~

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

39 C. No later than March 31, 2008 and annually thereafter, the commission shall  
40 submit a report regarding the status of new renewable capacity resources in the State

1 and compliance with the portfolio requirements under paragraph A to the joint  
2 standing committee of the Legislature having jurisdiction over utilities and energy  
3 matters. The report must include, but is not limited to, a description of new renewable  
4 capacity resources available to meet the portfolio requirements under paragraph A,  
5 documentation of the loss of any existing renewable generation capacity in the State,  
6 the status of implementation of the new renewable capacity resources portfolio  
7 requirements, ~~including any suspensions pursuant to paragraph B,~~ and  
8 recommendations to stimulate investment in new renewable capacity resources.

9 D. Retail electricity sales pursuant to a supply contract or standard-offer service  
10 arrangement executed by a competitive electricity provider that is in effect on the  
11 effective date of this subsection is exempt from the requirements of this subsection  
12 until the end date of the current term of the supply contract or standard-offer service  
13 arrangement.

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

16 **Sec. 6. 35-A MRSA §3210, sub-§3-B** is enacted to read:

17 **3-B. Portfolio requirements; new renewable capacity resources that rely on**  
18 **solar energy.** Portfolio requirements for new renewable capacity resources that rely on  
19 solar energy are governed by this subsection.

20 A. Beginning January 1, 2016, each competitive electricity provider in this State  
21 must demonstrate in a manner satisfactory to the commission that the percentage of  
22 its portfolio of supply sources for retail electricity sales in this State used to satisfy  
23 the requirements of subsection 3-A must include new renewable capacity resources  
24 that rely on solar energy and are interconnected to a transmission and distribution  
25 servicing load in the State as follows:

26 (1) One-fourth of one percent for the period from January 1, 2016 to December  
27 31, 2016;

28 (2) One-half of one percent for the period from January 1, 2017 to December 31,  
29 2017;

30 (3) Three-fourths of one percent for the period from January 1, 2018 to  
31 December 31, 2018;

32 (4) One percent for the period from January 1, 2019 to December 31, 2019;

33 (5) One and one-half percent for the period from January 1, 2020 to December  
34 31, 2020;

35 (6) Two percent for the period from January 1, 2021 to December 31, 2021; and

36 (7) Two and one-half percent for the period from January 1, 2022 to December  
37 31, 2022 and for every year thereafter.

38 B. The commission shall subject each solar renewable energy credit used for  
39 compliance with paragraph A to the following discount factors:

1                   (1) One solar renewable energy credit is generated for each megawatt-hour of  
2                   solar energy generated from:

3                   (a) Solar resources with less than 100 kilowatts in capacity located on low-  
4                   income or median-income housing units;

5                   (b) Solar resources eligible for shared ownership net energy billing; and

6                   (c) Solar resources owned by an agricultural business;

7                   (2) Nine-tenths of one solar renewable energy credit is generated for each  
8                   megawatt-hour of solar energy generated from:

9                   (a) Solar resources located on landfills;

10                  (b) Solar resources owned by a municipality or unit of municipal  
11                  government; and

12                  (c) Solar resources not eligible under divisions (a) and (b) and under  
13                  subparagraph (1) with less than one megawatt of capacity and for which  
14                  more than 67% of the power is consumed on site; and

15                  (3) Eight-tenths of one solar renewable energy credit is generated for each  
16                  megawatt-hour of solar energy generated from all solar resources other than those  
17                  under subparagraphs (1) and (2).

18                  An eligible facility that relies on solar energy is not subject to the portfolio requirements  
19                  of this subsection and subsections 3 and 3-A.

20                  For the purposes of this subsection, "eligible facility" has the same meaning as in section  
21                  3209-A, subsection 1, paragraph A and "net energy billing" has the same meaning as in  
22                  section 3209-A, subsection 1, paragraph B.

23                  The commission shall adopt rules to implement this subsection. Rules adopted pursuant  
24                  to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter  
25                  2-A.

26                  **Sec. 7. 35-A MRSA §3210, sub-§8**, as amended by PL 2009, c. 329, Pt. A, §2, is  
27                  further amended to read:

28                  **8. Credit trading.** The commission shall allow competitive electricity providers to  
29                  satisfy the portfolio requirements of subsections 3 and 3-A through the use of renewable  
30                  energy credits and to satisfy the portfolio requirements of subsection 3-B through the use  
31                  of solar renewable energy credits if the commission determines that a reliable system of  
32                  electrical attribute trading exists. When renewable energy credits are used to satisfy the  
33                  portfolio requirements of subsections 3 and 3-A, the value of a renewable energy credit  
34                  for electricity generated by a community-based renewable energy project, as defined in  
35                  section 3602, that is participating in the community-based renewable energy pilot  
36                  program established in section 3603 and elects the renewable energy credit multiplier  
37                  under section 3605 is 150% of the amount of the electricity.

38                  **Sec. 8. 35-A MRSA §3210, sub-§9**, as amended by PL 2011, c. 637, §1, is  
39                  further amended to read:

1           **9. Alternative compliance payment; portfolio requirements for new renewable**  
2 **capacity resources.** The commission shall allow competitive electricity providers to  
3 satisfy the portfolio requirements for new renewable capacity resources under ~~subsection~~  
4 subsections 3-A and 3-B through an alternative compliance payment mechanism in  
5 accordance with this subsection.

6           A. The commission shall set the alternative compliance payment rate by rule and  
7 shall publish the alternative compliance payment rate by January 31st of each year. In  
8 setting the rate, the commission shall take into account prevailing market prices,  
9 standard-offer service prices for electricity, reliance on alternative compliance  
10 payments to meet the requirements of subsection 3-A and investment in new  
11 renewable capacity resources in the State during the previous calendar year.

12           B. The commission shall collect alternative compliance payments made by  
13 competitive electricity providers and shall deposit all funds collected under this  
14 paragraph in the Energy Efficiency and Renewable Resource Fund established under  
15 section 10121, subsection 2 to be used to fund research, development and  
16 demonstration projects relating to renewable energy technologies and to fund rebates  
17 for cost-effective renewable energy technologies.

18           C. Beginning October 1, 2015, the commission shall set the alternative compliance  
19 payment rate for solar energy at \$200 per solar renewable energy credit. Beginning  
20 January 1, 2023, the commission shall set the alternative compliance payment rate for  
21 solar energy by rule in order to meet the requirements of subsection 3-B and maintain  
22 the rate of solar market development over the previous 5 years.

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

25           **Sec. 9. 35-A MRSA §3210-C, sub-§3-A** is enacted to read:

26           **3-A. Solar market stabilization contracts.** Beginning October 1, 2015 and on  
27 January 1st every year thereafter through the year ending December 31, 2022, the  
28 commission shall conduct an auction or an alternative competitive solicitation for long-  
29 term contracts for solar renewable energy credits in accordance with this subsection.  
30 Each year the commission shall solicit contracts for no more than 40% and no less than  
31 20% of the total solar renewable energy credits that will be required during that year in  
32 accordance with section 3210, subsection 3-B. The commission shall solicit contracts for  
33 solar renewable energy credits at a fixed price in relation to the year's alternative  
34 compliance payment rate for solar energy under subsection 9, paragraph C as follows:

35           A. In 2015 and 2016, the price must be 80% of the alternative compliance payment  
36 rate for solar energy;

37           B. In 2017, the price must be 75% of the alternative compliance payment rate for  
38 solar energy;

39           C. In 2018, the price must be 70% of the alternative compliance payment rate for  
40 solar energy;

41           D. In 2019, the price must be 65% of the alternative compliance payment rate for  
42 solar energy;



1 E. In 2020, the price must be 60% of the alternative compliance payment rate for  
2 solar energy;

3 F. In 2021, the price must be 55% of the alternative compliance payment rate for  
4 solar energy; and

5 G. In 2022, the price must be 50% of the alternative compliance payment rate for  
6 solar energy.

7 The term of all contracts must be between 10 and 20 years. The commission may also  
8 offer solicitations for contracts for future years using the alternative compliance payment  
9 rate for solar energy reasonably anticipated for those years, as long as the total volume of  
10 solar renewable energy credits does not exceed the limits in this subsection.

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

13 **SUMMARY**

14 This bill allows customers of transmission and distribution utilities to engage in net  
15 energy billing, a method under which a customer is billed on the basis of net energy over  
16 the billing period taking into account accumulated unused kilowatt-hour credits from the  
17 previous billing period. It changes the law regarding renewable resources to increase the  
18 new renewable capacity resources percentages in the portfolio requirements of  
19 competitive electricity providers and requires those increases to be met by new renewable  
20 capacity resources that rely on solar energy; and it removes the Public Utilities  
21 Commission's power to suspend scheduled increases in portfolio requirements for new  
22 renewable capacity resources. It also establishes an alternative compliance payment  
23 mechanism and a system of solar renewable energy credits, including an auction for long-  
24 term contracts for these credits, in order to provide competitive electricity providers with  
25 alternative methods to satisfy the new portfolio requirements.