

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1310

H.P. 888

House of Representatives, April 9, 2015

### **An Act To Amend the Community-based Renewable Energy Program**

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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 DeCHANT of Bath.  
Cosponsored by Representatives: BEAVERS of South Berwick, RYKERSON of Kittery,  
WADSWORTH of Hiram, Senator: MIRAMANT of Knox.

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

2 **Sec. 1. 35-A MRSA §3210, sub-§8**, as amended by PL 2009, c. 329, Pt. A, §2, is  
3 further amended to read:

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

13 **Sec. 2. 35-A MRSA §3602**, as amended by PL 2009 c. 542, §8, is further  
14 amended to read:

15 **§3602. Definitions**

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

18 **1. Community-based renewable energy project.** "Community-based renewable  
19 energy project" means ~~a locally owned~~ an electricity generating facility that generates  
20 electricity from an eligible renewable resource and that the commission has determined  
21 meets the eligibility requirements of section 3603, subsection 3.

22 **2. Eligible renewable resource.** "Eligible renewable resource" means a renewable  
23 capacity resource as defined in section 3210, subsection 2, paragraph B-3.

24 ~~**3. Locally owned electricity generating facility.** "Locally owned electricity~~  
25 ~~generating facility" means an electricity generating facility at least 51% of which is~~  
26 ~~owned by one or more qualifying local owners.~~

27 **4. Program participant.** "Program participant" means a community-based  
28 renewable energy project that ~~is participating in the community-based renewable energy~~  
29 ~~pilot program established in section 3603~~ has been selected to enter into a long-term  
30 contract pursuant to section 3604.

31 ~~**5. Qualifying local owner.** "Qualifying local owner" means a person or entity that~~  
32 ~~is:~~

33 ~~A. An individual who is a resident of the State;~~

34 ~~B. A political subdivision of the State, including, but not limited to, a county,~~  
35 ~~municipality, quasi-municipal corporation or district as defined in Title 30-A, section~~  
36 ~~2351, school administrative unit as defined in Title 20-A, section 1, public or private~~  
37 ~~institution of higher education, regional council of governments or any other local or~~

1 regional governmental organization, including, but not limited to, a board,  
2 commission or association;

3 ~~C. A department, agency or instrumentality of the State;~~

4 ~~D. A federally recognized Indian tribe located in the State;~~

5 ~~E. A nonprofit corporation, organized under the laws of the State, including a unit  
6 owners association organized under Title 33, section 1603-101; or~~

7 ~~F. A business corporation, organized under the laws of the State, at least 51% of  
8 which is owned by one or more residents of the State.~~

9 **Sec. 3. 35-A MRSA §3603**, as amended by PL 2013, c. 454, §3, is further  
10 amended to read:

11 **§3603. Community-based renewable energy program**

12 **1. Program established.** The community-based renewable energy ~~pilot~~ program,  
13 referred to in this section as "the program," is established to encourage the sustainable  
14 development of community-based renewable energy in the State. The program is  
15 administered by the commission.

16 **2. Program scope; limits on generating capacity.** The commission shall limit  
17 participation in the program in accordance with this subsection.

18 A. The installed generating capacity of a program participant may not exceed 10  
19 megawatts.

20 B. The total installed generating capacity of all program participants combined may  
21 not exceed ~~50~~ 100 megawatts.

22 D. Of the ~~50-megawatt~~ 100-megawatt limit on total generating capacity under  
23 paragraph B, ~~40~~ 2 megawatts must be reserved at the outset of the program for  
24 program participants that: have an installed generating capacity of less than 100  
25 kilowatts.

26 ~~(1) Have an installed generating capacity of less than 100 kilowatts; or~~

27 ~~(2) Are located in the service territory of a consumer owned transmission and  
28 distribution utility.~~

29 The commission may modify the amount of generating capacity reserved under this  
30 paragraph based on program experience.

31 ~~E. The total installed generating capacity of program participants that receive the  
32 renewable energy credit multiplier incentive under section 3605 may not exceed 10  
33 megawatts.~~

34 **3. Program eligibility criteria.** To be eligible to participate in the program, a  
35 ~~community-based renewable~~ an energy project must:

36 A. Provide documentation of a resolution of support passed by the municipal  
37 legislative body or by the municipal officers, if the municipal legislative body has  
38 delegated this authority to the municipal officers, of the municipality in which the

1 ~~community-based renewable~~ energy project is proposed to be located, except that any  
2 project that is proposed to be located wholly in an unorganized or deorganized area of  
3 the State or that has a generating capacity of less than 100 kilowatts is exempt from  
4 the requirement set forth in this paragraph;

5 B. In the case of a ~~community-based renewable~~ an energy project proposed to be  
6 located on the tribal land or territory of a federally recognized Indian tribe in this  
7 State, including any land owned by the tribe or held in trust by the United States for  
8 the tribe, provide documentation that the tribe supports the ~~community-based~~  
9 ~~renewable~~ energy project;

10 C. Be connected to the electric grid of this State;

11 D. Have an in-service date after September 1, 2009; and

12 E. Satisfy the limits on generating capacity established in subsection 2.

13 The commission shall prescribe an application form or procedure that must be used to  
14 apply to the program under this chapter. The application form or procedure must include  
15 any information that the commission determines necessary for the purpose of  
16 administering the program. The commission shall, within 30 days of receipt of a  
17 completed application, determine whether a ~~community-based renewable~~ an energy  
18 project qualifies to participate in the program and respond in writing.

19 ~~**4. Program incentives.** Subject to the requirements of subsection 2, a program~~  
20 ~~participant may elect one of the following program incentives:~~

21 ~~A. A long term contract for community based renewable energy pursuant to section~~  
22 ~~3604; or~~

23 ~~B. The renewable energy credit multiplier pursuant to section 3605.~~

24 **5. Program viability.** The commission shall establish standards to ensure the  
25 viability of community-based renewable energy projects. The standards established by  
26 the commission must include:

27 A. Benchmarks a project must meet to ensure a project is and remains viable;

28 B. A process for determining completion of the development of projects; and

29 C. Protocols for determining a project is no longer viable.

30 If in the opinion of the commission a project is no longer viable, the commission may  
31 remove the project from the program.

32 **Sec. 4. 35-A MRSA §3604**, as amended by PL 2013, c. 454, §4, is further  
33 amended to read:

34 **§3604. Long-term contracts for community-based renewable energy**

35 ~~Long term contracts with program participants who elect the long term contract for~~  
36 ~~community based renewable energy pursuant to section 3603, subsection 4, paragraph A~~  
37 ~~are governed by this section. In January 2016 and every 6 months thereafter until the~~  
38 ~~program limits established under section 3603, subsection 2 are reached, the commission~~

1 shall conduct a competitive bidding process to select community-based renewable energy  
2 projects to become program participants and enter long-term contracts under this section.  
3 The total installed capacity of community-based renewable energy projects selected in  
4 each competitive bid process must be as close as possible to but may not exceed 15  
5 megawatts. The commission shall select the lowest cost bids, based 50% on the proposed  
6 contract price and 50% on resulting ratepayer costs. After a community-based renewable  
7 energy project is selected to be a program participant, the project must become  
8 operational and commence generating electricity within 3 years or the project's  
9 participation in the program is terminated, except that the commission may, on petition,  
10 grant an extension of up to 6 months if project completion was delayed due to factors  
11 beyond the control of the program participant.

12 **1. Transmission and distribution utilities; required participation.**  
13 Notwithstanding section 3204, the commission ~~may~~ shall direct ~~investor-owned~~  
14 transmission and distribution utilities to enter into long-term contracts with program  
15 participants located within the service territory of the utility for energy, capacity  
16 resources or renewable energy credits. The commission may direct ~~investor-owned~~  
17 transmission and distribution utilities to enter into contracts under this subsection only as  
18 agents for their customers and only in accordance with this section. ~~An investor-owned~~ A  
19 transmission and distribution utility shall sell energy, capacity resources or renewable  
20 energy credits purchased pursuant to this subsection into the wholesale electricity market  
21 or take other action relative to such energy, capacity resources or renewable energy  
22 credits as directed by the commission.

23 ~~**2. Consumer-owned transmission and distribution utilities; voluntary**~~  
24 ~~**participation.**~~ ~~A consumer owned transmission and distribution utility may, at the~~  
25 ~~option of the utility, enter into long term contracts with program participants located~~  
26 ~~within the service territory of the utility for energy, capacity resources or renewable~~  
27 ~~energy credits. Consumer-owned transmission and distribution utilities may enter into~~  
28 ~~contracts under this subsection only as agents for their customers and only in accordance~~  
29 ~~with this section.~~

30 **3. Sale of energy; contract procedures.** Energy, capacity resources or renewable  
31 energy credits contracted in long-term contracts pursuant to this section may be sold into  
32 the wholesale electricity market in conjunction with solicitations for standard-offer  
33 supply bids under section 3212 or solicitations for green power offer bids under section  
34 3212-A. To the greatest extent possible, the commission shall develop procedures for  
35 long-term contracts for transmission and distribution utilities under this section having  
36 the same legal and financial effect as the procedures used for standard-offer service  
37 pursuant to section 3212 for transmission and distribution utilities.

38 **4. Contract term.** A contract entered into pursuant to this section may not be for  
39 more than 20 years.

40 ~~**5. Contract pricing; cost containment.**~~ ~~The commission shall ensure that in any~~  
41 ~~contract entered into pursuant to this section:~~

42 ~~A. The average price per kilowatt hour within each contract year does not exceed~~  
43 ~~10¢; and~~

1 ~~B. The cost of the contract does not exceed the cost of the project plus a reasonable~~  
2 ~~rate of return on investment as determined by the commission.~~

3 **6. Contract negotiation.** For program participants with a generating capacity of one  
4 ~~megawatt or more, the commission shall, in accordance with this subsection, conduct~~  
5 ~~competitive solicitations for long term contracts. The commission shall require that bids~~  
6 ~~include full project cost disclosure. Following a review of bids received, the commission~~  
7 ~~may negotiate with one or more potential suppliers. The commission shall negotiate~~  
8 ~~contracts that are commercially reasonable and that commit all parties to commercially~~  
9 ~~reasonable behavior. In selecting program participants for contracting pursuant to this~~  
10 ~~subsection, the commission shall select program participants that are competitive and the~~  
11 ~~lowest priced when compared to other available bids of the same or similar contract~~  
12 ~~duration or terms.~~

13 ~~**7. Contract administration; small generators.** For program participants with a~~  
14 ~~generating capacity of less than one megawatt, the commission shall administer long term~~  
15 ~~contracts at prices established by the commission by rule. The commission shall, at a~~  
16 ~~minimum, establish prices for energy generated by the following renewable resources:~~

17 ~~A. Wind power installations;~~

18 ~~B. Solar arrays and installations; and~~

19 ~~C. Any other renewable resource upon request of one or more community based~~  
20 ~~renewable energy generators that use that resource.~~

21 ~~The commission shall establish prices under this subsection based on an analysis of~~  
22 ~~reasonable costs and may establish different prices for different resources or technologies~~  
23 ~~and different prices by time of generation in accordance with that analysis.~~

24 **8. Cost and benefit allocation.** The commission shall ensure that all costs and  
25 benefits associated with contracts involving ~~investor owned~~ transmission and distribution  
26 utilities entered into under this section are allocated to electricity consumers in  
27 accordance with section 3210-F.

28 **9. Contract payments.** Contracts for capacity and related energy entered into  
29 pursuant to this section must provide that payments will be made only after contracted  
30 amounts of energy have been provided.

31 **10. Ratepayer protection.** The commission shall ensure that mechanisms are  
32 established to provide protections for ratepayers over the term of contracts entered into  
33 pursuant to this section.

34 **Sec. 5. 35-A MRSA §3605**, as enacted by PL 2009, c. 329, Pt. A, §4, is repealed.

35 **Sec. 6. 35-A MRSA §3609**, as enacted by PL 2009, c. 329, Pt. A, §4, is repealed.

## 36 SUMMARY

37 This bill makes various changes to the community-based renewable energy pilot  
38 program. It makes the program permanent, broadens eligibility, adds provisions to ensure

1 program participant viability, eliminates the program incentive of renewable energy  
2 credit multipliers and requires the Public Utilities Commission to use a periodic  
3 competitive bidding process to choose projects that will receive long-term contracts.