

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1649

H.P. 1120

House of Representatives, March 10, 2016

An Act To Modernize Maine's Solar Power Policy and Encourage Economic Development

Reported by Representative DION of Portland for the Joint Standing Committee on Energy, Utilities and Technology pursuant to Resolve 2015, chapter 37, section 2.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 35-A MRSA §3210-F, sub-§1**, as enacted by PL 2013, c. 454, §2, is
3 amended to read:

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

6 A. "Eligible costs and benefits" means the net amount of all costs and direct financial
7 benefits associated with long-term energy contracts entered into by investor-owned
8 transmission and distribution utilities, including but not limited to any effects on a
9 utility's cost of capital as a result of these contracts. For distributed generation
10 resources, "eligible costs and benefits" includes the categories set forth in section
11 3476, subsection 3.

12 B. "Long-term energy contract" means a contract with an investor-owned
13 transmission and distribution utility or a standard buyer entered into under section
14 3210-C ~~or~~ section 3604 or chapter 34-B.

15 **Sec. 2. 35-A MRSA §3210-F, sub-§3**, as enacted by PL 2013, c. 454, §2, is
16 amended to read:

17 **3. Allocation of eligible costs and benefits.** The commission shall annually allocate
18 to each investor-owned transmission and distribution utility its pro rata share of eligible
19 costs and benefits as determined under subsection 2. The allocation must be based on
20 each utility's total retail kilowatt-hour energy sales to ratepayers that receive the benefits
21 and pay the costs of long-term energy contracts. The commission may determine the
22 means to be used for the allocation required under this section, which may include the
23 direct transfer of funds between investor-owned transmission and distribution utilities or
24 to or from a standard buyer under chapter 34-B.

25 **Sec. 3. 35-A MRSA §3212-B** is enacted to read:

26 **§3212-B. Solar power options**

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

29 A. "Renewable energy credit" has the same meaning as in section 3210, subsection
30 2, paragraph B-2.

31 B. "Solar power supply" means renewable energy credits for electricity generated
32 from renewable capacity resources as defined in section 3210, subsection 2,
33 paragraph B-3, subparagraph (1), division (c).

34 **2. Solar power offer.** The commission shall arrange for a solar power offer that is
35 composed of solar power supply in accordance with this subsection. Except as provided
36 in this subsection, the commission shall ensure that the solar power offer is available to
37 all residential and small commercial electricity customers, as defined by the commission
38 by rule, and shall administer a competitive bid process to select a solar power offer
39 provider or providers for the service territory of a transmission and distribution utility.

1 A. The solar power offer must be in addition to existing standard-offer service under
2 section 3212.

3 B. The commission shall, in accordance with section 3210, subsection 7, inform
4 residential and small commercial consumers of electricity in this State of the
5 opportunity to purchase the solar power offer.

6 C. The commission is not required to arrange for a solar power offer in the event that
7 the commission receives no bids to provide the solar power offer in a transmission
8 and distribution utility's territory, determines that the bids it receives are inadequate
9 or unacceptable or determines, based on prior experience arranging for a solar power
10 offer in a utility's territory, that it is reasonably likely that it will not receive any
11 adequate or acceptable bids.

12 D. The commission is not required to arrange for a solar power offer for the territory
13 of a consumer-owned transmission and distribution utility. If the commission
14 arranges standard-offer service for a consumer-owned transmission and distribution
15 utility, the consumer-owned transmission and distribution utility may elect to have
16 the commission arrange a solar power offer in accordance with this subsection. A
17 consumer-owned transmission and distribution utility may establish a solar power
18 offer through a competitive bidding process conducted in accordance with the
19 commission's rules governing the selection of a solar power offer provider under this
20 subsection.

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

23 **3. Certification; information in bill inserts.** Beginning July 1, 2017, information
24 regarding the availability of the solar power offer and of solar power supply products and
25 renewable energy credit products that are certified by the commission may, at the option
26 of the provider of the offer or the product and with the cooperation of the transmission
27 and distribution utility, be presented through inserts in customer bills issued by
28 transmission and distribution utilities. The costs of the inserts, including but not limited to
29 printing and postage costs, are the responsibility of the provider of the offer or product.
30 The commission may define the criteria for certification of solar power supply products
31 and renewable energy credit products by order or by rule, and the commission may limit
32 the criteria for certification for consumer protection and eligibility verification purposes.

33 **4. Rules.** The commission shall adopt rules to implement this section. Rules
34 adopted under this subsection are routine technical rules as defined in Title 5, chapter
35 375, subchapter 2-A.

36 **5. Repeal.** This section is repealed April 1, 2021.

37 **Sec. 4. 35-A MRSA §3471-A** is enacted to read:

38 **§3471-A. Definitions**

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

1 **1. Credit rate.** "Credit rate" means the per kilowatt-hour rate used to calculate the
2 monetary value of a subscriber's share of the output of the large-scale community solar
3 distributed generation resource. The credit is equal to the per kilowatt-hour rate in the
4 long-term contracts entered into between the standard buyer and the project sponsor
5 pursuant to this section and must be the same for all subscribers of a particular large-scale
6 community solar distributed generation resource.

7 **2. Distributed generation resource.** "Distributed generation resource" means an
8 electric generating facility that uses a renewable fuel or technology as specified in section
9 3210, subsection 2, paragraph C or is a micro-combined heat and power system located in
10 the service territory of a transmission and distribution utility.

11 **3. Kilowatt.** "Kilowatt" means 1,000 watts, measured in direct current.

12 **4. Large-scale community solar distributed generation resource.** "Large-scale
13 community solar distributed generation resource" means a solar distributed generation
14 resource with a nameplate capacity of up to 5 megawatts that is selected in a procurement
15 in accordance with this section the beneficial use of the output of the resources of which
16 belongs to the subscribers.

17 **5. Megawatt.** "Megawatt" means 1,000,000 watts, measured in direct current.

18 **6. Micro-combined heat and power system.** "Micro-combined heat and power
19 system" means a system that:

20 A. Produces heat and electricity from one fuel input, without restriction to specific
21 fuel or generating technology;

22 B. Has an electric generating capacity rating of at least one kilowatt and not more
23 than 30 kilowatts and a fuel system efficiency of not less than 80% in the production
24 of heat and electricity or has an electric generating capacity and a fuel system
25 efficiency of not less than 65% in the production of heat and electricity; and

26 C. Is connected to the electric grid and operated in conjunction with the facilities of a
27 transmission and distribution utility.

28 **7. Output.** "Output" means energy, capacity, renewable energy certificates and all
29 other environmental attributes and market products that are available or may become
30 available from a distributed generation resource.

31 **8. Project sponsor.** "Project sponsor" means any entity, its successor or its assignee
32 selected by the commission under section 3478, subsection 4 that owns or operates one or
33 more large-scale community solar distributed generation resources on behalf of
34 subscribers.

35 **9. Subscriber.** "Subscriber" means a retail customer of a transmission and
36 distribution utility who owns a subscription and who has identified an account to which
37 the subscription is attributed.

1 **10. Subscription.** "Subscription" means a proportional interest in a large-scale
2 community solar distributed generation resource. Each subscription must be sized to
3 represent at least one kilowatt of the resource's generating capacity.

4 **Sec. 5. 35-A MRSA §3473, sub-§§3 to 5** are enacted to read:

5 **3. Solar procurements.** The commission shall procure solar distributed generation
6 resources in the grid-scale, large-scale community, commercial and industrial and
7 residential and small business market segments to achieve the targets in section 3475
8 using the procurement methods described in this chapter.

9 **4. Participation in wholesale markets.** The commission and investor-owned
10 transmission and distribution utilities shall take all reasonable steps to promote the
11 participation of distributed generation resources in the wholesale electricity, capacity and
12 ancillary service markets.

13 **5. Change in tax treatment.** If a change in federal tax laws, rules or policy
14 materially modifies the burdens or costs to customers or utilities associated with the
15 procurements under this chapter, the commission shall issue a report to the joint standing
16 committee of the Legislature having jurisdiction over utility matters describing the impact
17 of these changes and recommending any actions necessary to maintain the benefits of the
18 procurements under this chapter.

19 **Sec. 6. 35-A MRSA §§3475 to 3481** are enacted to read:

20 **§3475. Solar procurement targets**

21 **1. Grid-scale.** The procurement target for the grid-scale solar distributed generation
22 resources under section 3477 is 60 megawatts by January 1, 2022.

23 **2. Large-scale community.** The procurement target for the large-scale community
24 solar distributed generation resources under section 3478 is 45 megawatts by January 1,
25 2022.

26 **3. Commercial and industrial.** The procurement target for the commercial and
27 industrial solar distributed generation resources under section 3479 is 25 megawatts by
28 January 1, 2022.

29 **4. Residential and small business.** The procurement targets for the residential and
30 small business solar distributed generation resources under section 3480 are:

31 A. Seven megawatts by January 1, 2018;

32 B. Twenty-one megawatts by January 1, 2019;

33 C. Forty-five megawatts by January 1, 2020;

34 D. Seventy megawatts by January 1, 2021; and

35 E. One hundred eighteen megawatts by January 1, 2022.

1 **§3476. Standard buyer**

2 The standard buyer is designated pursuant to this section to aggregate the output of
3 the portfolio of distributed generation resources procured pursuant to this chapter and sell
4 or use the output of these resources in a manner that maximizes the value of this portfolio
5 of resources to all ratepayers.

6 **1. Designation of standard buyer.** Each investor-owned transmission and
7 distribution utility shall serve as the standard buyer in its service territory, except that the
8 commission may designate another entity to serve as standard buyer if the commission
9 determines that it is in the best interest of ratepayers. The standard buyer is subject to the
10 jurisdiction of the commission.

11 **2. Obligations of the standard buyer.** The standard buyer designated pursuant to
12 subsection 1 shall:

13 A. Serve as counterparty to and enforce long-term contracts with project sponsors
14 and customers for each market segment under this chapter;

15 B. Reimburse investor-owned transmission and distribution utilities for any bill
16 credit or payment to a customer, subscriber or project sponsor pursuant to section
17 3478, 3479 or 3480;

18 C. Establish reasonable metering and measurement and verification requirements for
19 distributed generation resources;

20 D. Provide information needed to allocate costs and benefits pursuant to subsection
21 3;

22 E. Provide aggregate data regarding the output of distributed generation resources to
23 the commission; and

24 F. Make renewable energy credits available for sale to the provider of the green
25 power offer pursuant to section 3212-A.

26 The commission shall ensure that the rules and procedures established under this chapter
27 provide opportunities for entities other than the standard buyer to aggregate and sell the
28 output of distributed generation resources in the applicable markets.

29 **3. Standard buyer cost allocation.** The commission and each standard buyer
30 designated pursuant to subsection 1 shall implement a transparent mechanism to track and
31 recover or distribute the net costs or revenue from procuring distributed generation
32 resources pursuant to this chapter. These net costs or benefits must be reviewed by the
33 commission and allocated to customers and recovered as set forth in section 3210-C,
34 subsection 8. Eligible costs and benefits include:

35 A. Incremental costs of serving as the standard buyer;

36 B. All payments to customers, subscribers and project sponsors under each
37 procurement pursuant to sections 3477 to 3479;

38 C. Any costs of providing renewable energy credits to participating customers
39 pursuant to section 3480, subsection 8; and

1 D. All revenue from sale of the output of distributed generation resources procured
2 pursuant to this chapter.

3 **4. Rules.** The commission shall adopt rules to implement this section by January 1,
4 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
5 chapter 375, subchapter 2-A.

6 **§3477. Grid-scale solar procurement**

7 **1. Procurement.** The commission shall conduct a competitive solicitation at least
8 once per year for long-term contracts for the output of grid-scale solar distributed
9 generation resources with a nameplate capacity of up to 5 megawatts. In each calendar
10 year, the commission shall seek to procure approximately 20% of the capacity needed to
11 meet the procurement target in section 3475, subsection 1, except that the commission
12 may modify this annual allocation if it concludes that doing so would be in the best
13 interests of all ratepayers. Prior to a solicitation, the commission shall develop, in
14 consultation with the standard buyer, a standard contract that commits all parties to
15 commercially reasonable behavior and includes provisions to ensure that projects proceed
16 to commercial operation on a reasonable timeline.

17 **2. Bidder eligibility.** The commission may establish minimum requirements for
18 bidders in a solicitation under subsection 1, including but not limited to site control,
19 development experience, completion of an interconnection application and system details
20 for potential bidders. The commission may require bidders to pay an application fee to
21 defray administrative costs.

22 **3. Ensuring competition.** Prior to each solicitation under subsection 1, the
23 commission shall establish standards to ensure that the solicitation has a sufficient
24 number of unique bidders and quantity of offered capacity to be determined competitive.
25 If the commission concludes based on these standards that a solicitation is not
26 competitive, no bidders may be selected and the capacity available in that solicitation
27 must be deferred to a subsequent solicitation. The commission may adjust the maximum
28 project size eligible for a solicitation to ensure that there is more than one bid selected.

29 **4. Bid selection.** Following review of bids, if the commission determines that the
30 solicitation under subsection 1 is competitive, the commission shall select one or more
31 winning bidders and direct the standard buyer to negotiate and enter into a contract with
32 the winning bidder or bidders for a term of 20 years at a specified contract rate. The
33 commission shall select bids that maximize benefits or minimize costs to all ratepayers.

34 **5. Rules.** The commission shall adopt rules to implement this section by January 1,
35 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
36 chapter 375, subchapter 2-A.

37 **§3478. Large-scale community solar procurement**

38 **1. Procurement.** The commission shall conduct competitive solicitations for long-
39 term contracts for the output of large-scale community solar distributed generation
40 resources. Solicitations may be conducted twice per year, or less frequently at the
41 discretion of the commission, but no less than once per year. In each calendar year, the

1 commission shall seek to procure approximately 20% of the capacity needed to meet the
2 procurement target in section 3475, subsection 2; except that the commission may modify
3 this annual allocation if it concludes that doing so would be in the best interests of all
4 ratepayers. Prior to a solicitation, the commission shall develop, in consultation with the
5 standard buyer, a standard contract that commits all parties to commercially reasonable
6 behavior and includes provisions to ensure that projects proceed to commercial operation
7 on a reasonable timeline.

8 **2. Bidder eligibility.** The commission may establish minimum requirements for
9 bidders in a solicitation under subsection 1, including but not limited to site control,
10 development experience, completion of an interconnection application and provision of
11 system details. The commission may require bidders to pay an application fee to defray
12 administrative costs.

13 **3. Ensuring competition.** Prior to each solicitation under subsection 1, the
14 commission shall establish standards to ensure that the solicitation has a sufficient
15 number of unique bidders and quantity of offered capacity to be determined competitive.
16 If the commission concludes based on these standards that a solicitation is not
17 competitive, no bidders may be selected and the capacity available in that solicitation
18 must be deferred to a subsequent solicitation. The commission may adjust the maximum
19 project size eligible for a solicitation to ensure that there is more than one bid selected.

20 **4. Bid selection.** Following review of bids in a solicitation under subsection 1, if the
21 commission determines that the solicitation is competitive, the commission shall select
22 one or more winning bidders and direct the standard buyer to negotiate and enter into a
23 contract with the winning bidder or bidders for a term of 20 years at a specified contract
24 rate. The commission shall select bids that maximize benefits or minimize costs to all
25 ratepayers.

26 **5. Payment and minimum subscription.** The project sponsor and subscribers must
27 receive the contract rate for the output of the large-scale community solar distributed
28 generation resource, except that after one year of commercial operation any unsubscribed
29 share of the project must be paid at the wholesale electricity rate. If less than 50% of a
30 resource's subscriptions are 25 kilowatts or less, any amount less than 50% from
31 subscriptions of this size are deemed unsubscribed. The project sponsor shall compensate
32 the standard buyer in an amount equal to the difference between the contract rate and the
33 wholesale electricity rate for the output of any share deemed unsubscribed under this
34 subsection.

35 **6. Determination of subscriber bill credit.** The bill credit to be allocated to each
36 subscriber to a particular large-scale community solar distributed generation resource
37 must be based on each subscriber's percentage interest of the total production of the large-
38 scale community solar distributed generation resource for the previous month. Each
39 billing month, the value of the credits allocated to each subscriber must be calculated by
40 multiplying the number of kilowatt-hours equal to each subscriber's share by the
41 resource's credit rate. The project sponsor shall provide to the transmission and
42 distribution utility, on a monthly basis and within reasonable periods set by that utility,
43 the information required to calculate the bill credit to be provided to each subscriber.

1 Payments to subscribers must be credited against the subscriber's monthly electricity bill
2 in accordance with section 3481.

3 The monthly output available for allocation as subscribed or unsubscribed energy must be
4 determined by a revenue-grade meter installed and paid for by the project sponsor.

5 **7. Exemption.** A project sponsor or subscriber is not considered a public utility or
6 competitive electricity supplier solely as a result of the project sponsor's or subscriber's
7 interest or participation in a large-scale community solar distributed generation resource.

8 **8. Renewable energy credits.** The commission shall develop a standard disclosure
9 to be provided by the project sponsor to all participating subscribers prior to their entering
10 into a contract under this section that describes the effect of selling the renewable
11 attributes of exported electricity to the standard buyer and explains how a subscriber may
12 participate in the voluntary renewable energy credit market.

13 The commission shall establish a mechanism to allow a residential or small business
14 customer who has entered into a long-term contract under this section to purchase
15 renewable energy credits equivalent to those the customer has sold to the standard solar
16 buyer at a price equal to 80% of market value.

17 **9. Consumer protection.** The commission shall establish by rule consumer
18 protection standards to protect subscribers from fraud and other unfair and deceptive
19 business practices. The commission may impose administrative penalties upon a project
20 sponsor in accordance with chapter 15 and may order restitution for any party injured by
21 a violation for which a penalty may be assessed pursuant to this subsection.

22 The commission through its own counsel or through the Attorney General may apply to
23 the Superior Court of any county of the State to enforce any lawful order made or action
24 taken by the commission pursuant to this subsection. The court may issue such orders,
25 preliminary or final, as it considers proper under the facts established before it.

26 **10. Disclosures.** A project sponsor selling or reselling a subscription in a large-scale
27 community solar distributed generation resource shall provide a disclosure to potential
28 subscribers that includes the following prior to the sale or resale of that subscription:

29 A. A good faith estimate of the annual kilowatt-hours to be delivered by the large-
30 scale community solar distributed generation resource based on the size of the
31 subscriber's interest;

32 B. A plain language explanation of the terms under which the bill credits under
33 section 3481 will be calculated;

34 C. A plain language explanation of the contract provisions regulating the disposition
35 or transfer of the subscription; and

36 D. A plain language explanation of the costs and benefits to the potential subscriber,
37 based on the subscriber's current usage and applicable tariff, for the term of the
38 proposed contract.

1 The commission may establish a standard disclosure to be provided to potential
2 subscribers by a project sponsor to disclose this information or such other information as
3 the commission may determine necessary to protect the interests of potential subscribers.

4 **11. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to
5 the associated project sponsor or to any person or entity who qualifies to be a subscriber
6 in the large-scale community solar distributed generation resource. A project sponsor
7 must provide a process for assignment or transfer of a subscription. A project sponsor
8 may not impose fees on a subscriber who moves to a different location within the same
9 utility service territory.

10 **12. Utility participation in community solar.** A transmission and distribution
11 utility may collaborate with a project sponsor in a nondiscriminatory manner to increase
12 customer participation in large-scale community solar distributed generation resource
13 projects. Collaboration with a project sponsor may include, but is not limited to:

14 A. Customer education;

15 B. Lease of utility-owned land on a competitive basis;

16 C. Project joint advertising;

17 D. Assistance with customer outreach and acquisition; and

18 E. Program administration.

19 A transmission and distribution utility may propose fees for services provided or may file
20 annually to recover any reasonable costs of collaboration to advance large-scale
21 community solar distributed generation resource projects under this section.

22 Collaboration with a project sponsor under this subsection does not create an affiliated
23 interest or a financial interest in generation or generation-related assets.

24 **13. Rules.** The commission shall adopt rules to implement this section by January 1,
25 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
26 chapter 375, subchapter 2-A.

27 **§3479. Commercial and industrial solar procurement**

28 **1. Procurement.** The commission shall conduct a competitive solicitation as
29 frequently as the commission determines reasonable but no less than once per year for
30 long-term contracts for the output of solar distributed generation resources of up to 2
31 megawatts associated with a single commercial or industrial customer account. In each
32 calendar year, the commission shall seek to procure approximately 20% of the capacity
33 needed to meet the procurement target in section 3475, subsection 3; except that the
34 commission may modify this annual allocation if it concludes that doing so would be in
35 the best interests of all ratepayers. Prior to a solicitation, the commission shall develop,
36 in consultation with the standard buyer, a standard contract that commits all parties to
37 commercially reasonable behavior and includes provisions to ensure that projects proceed
38 to commercial operation on a reasonable timeline.

39 **2. Bidder eligibility.** The commission may establish minimum requirements for
40 bidders in a solicitation under subsection 1, including but not limited to site control.

1 development experience, completion of an interconnection application and system details
2 for potential bidders. The commission may require bidders to pay an application fee to
3 defray administrative costs.

4 **3. Ensuring competition.** Prior to each solicitation under subsection 1, the
5 commission shall establish standards to ensure that the solicitation has a sufficient
6 number of unique bidders and quantity of offered capacity to be determined competitive.
7 If the commission concludes based on these standards that a solicitation is not
8 competitive, no bidders may be selected and the capacity available in that solicitation
9 must be deferred to a subsequent solicitation. The commission may adjust the maximum
10 project size eligible for a solicitation to ensure that there is more than one bid selected.

11 **4. Bid selection.** Following review of bids, if the commission determines that the
12 solicitation is competitive, the commission shall select one or more winning bidders and
13 direct the standard buyer to negotiate and enter into a contract with the winning bidder or
14 bidders for a term of 20 years at a specified contract rate to be paid as a bill credit to the
15 commercial and industrial customer. The commission shall select bids that maximize
16 benefits or minimize costs to all customers.

17 **5. Determination of bill credit.** The bill credit to be allocated to a commercial and
18 industrial customer must be based on the total kilowatt-hours of energy production of the
19 solar distributed generation resource for the previous month. Each billing month, the
20 value of the credits must be calculated by multiplying the number of kilowatt-hours by
21 the contract rate. Payments to customers must be credited against the customer's monthly
22 electricity bill in accordance with section 3481.

23 The monthly production must be determined by a revenue-grade meter installed and paid
24 for by the participating commercial and industrial customer.

25 **6. Exemption.** A customer is not considered a public utility or competitive
26 electricity supplier solely as a result of entering into a contract with the standard buyer
27 under this section.

28 **7. Rules.** The commission shall adopt rules to implement this section by January 1,
29 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
30 chapter 375, subchapter 2-A.

31 **§3480. Residential and small business procurement**

32 **1. Long-term contracts.** The standard buyer shall enter into a long-term contract
33 with a residential or small business customer for the output of a distributed generation
34 resource of 250 kilowatts or less. The rate paid for the output must be set by the
35 commission in accordance with subsection 2. Payments to customers under a contract
36 under this section must be credited against the customer's monthly electricity bill in
37 accordance with section 3481.

38 **2. Rates.** The commission shall establish the rates to be paid for the output of
39 distributed generation resources under a contract between a residential or small business
40 customer and the standard buyer under subsection 1.

1 The initial rate paid to new installations must decline as the total level of new residential
2 and small business capacity relative to the targets in section 3475, subsection 4 increases.

3 Rates must be sufficient to ensure that the total capacity of installations meets the
4 residential and small business procurement targets set forth in section 3475, subsection 4.
5 In determining whether rates are sufficient, the commission shall consider independent
6 analysis of installation costs and development projections in establishing the rates,
7 including but not limited to those from the United States Department of Energy, Office of
8 Energy Efficiency and Renewable Energy, National Renewable Energy Laboratory.

9 Rates must be set at levels intended to ensure that total annual contract payments for new
10 solar distributed generation resources procured under this section are not expected to
11 exceed \$10,500,000 per year in 2022, if the procurement targets in section 3475,
12 subsection 4 are met, assuming an export rate of 50% and that the adjustment mechanism
13 in subsection 3 is not triggered. Rates set under this subsection may be constant or
14 increase over the term of the contract.

15 The commission may establish separate rates for specific types of distributed generation
16 resources or additional incentives or a per kilowatt-hour increase in contract price for
17 resources with attributes that maximize benefits or lower costs to all customers.

18 **3. Rate adjustment mechanism.** The commission shall establish an adjustment
19 mechanism to automatically increase rates for new customers by a specified amount if the
20 total solar distributed generation resource capacity installed by residential and small
21 business customers under this section is less than 85% of the applicable target established
22 in section 3475, subsection 4. The evaluation to determine whether this adjustment is
23 triggered must occur at 6-month intervals.

24 **4. Self-consumption.** Notwithstanding section 1, a residential or small business
25 customer may offset that customer's own consumption using that customer's distributed
26 generation resource on an hourly basis. The commission may specify a longer period for
27 measuring self-consumption if it determines that a transmission and distribution utility
28 cannot track consumption on an hourly basis using a standard residential meter.

29 **5. Small-scale community distributed generation resources.** Residential and
30 small business customers may jointly participate in a single distributed generation
31 resource and receive payments under subsection 1 in proportion to each contracted share
32 of the resource. The commission shall ensure that distributed generation resources with
33 shared ownership at the same location are separate facilities. A customer or owner is not
34 considered a public utility or competitive electricity supplier solely as a result of interest
35 or participation in a single shared distributed generation resource under this subsection.

36 **6. Continuation of net energy billing.** The commission's net energy billing rules
37 existing on the effective date of this subsection remain in effect, without modification, for
38 all customers until new rules pursuant to subsection 10 take effect. On the effective date
39 of the rules established pursuant to subsection 10, net energy billing pursuant to section
40 3209-A is not available to new customers, unless reinstated pursuant to the program
41 review described in subsection 11.

1 **7. Existing net energy billing customers.** A customer who has elected net energy
2 billing pursuant to section 3209-A prior to the effective date of rules established pursuant
3 to subsection 10 continues to be eligible for compensation in the form of a kilowatt-hour
4 credit on the customer's monthly electricity bill for generation in excess of that customer's
5 consumption for that month, which may be carried forward and applied to the customer's
6 subsequent monthly electricity bills over 12 months, or the financial equivalent of that
7 credit, for 12 years from the effective date of rules established pursuant to subsection 10.
8 The commission shall establish a process to permit customers under this subsection to
9 enter into contracts and receive payments under subsections 1 and 2.

10 A customer who has elected net energy billing between January 1, 2016 and the effective
11 date of the rules established pursuant to subsection 10 may choose to enter into a contract
12 at the initial rate established by the commission under subsection 2 prior to any decline in
13 rate, as long as that customer makes that choice within one year of the effective date of
14 the rules.

15 The capacity of a net energy billing customer who has installed a solar distributed
16 generation resource and participated in net energy billing under section 3209-A prior to
17 the effective date of rules established pursuant to subsection 10 and elects to enter into a
18 long-term contract under this subsection may not be counted against the procurement
19 target in section 3475, subsection 4 or the cap on total annual contract payments under
20 subsection 2 or trigger any decline in prices.

21 No later than December 31, 2028, the commission shall initiate a proceeding to consider
22 methods to allow an owner of a distributed generation resource to continue to offset that
23 owner's own consumption and receive fair compensation for exported power in a manner
24 that benefits all ratepayers.

25 **8. Renewable energy credits.** A participating residential or small business
26 customer retains all environmental attributes associated with electricity generated by a
27 distributed generation resource that is not exported to the grid and sold to the standard
28 buyer. The commission shall develop a standard disclosure to be provided to all
29 participating customers prior to their entering into a contract under this section that
30 describes the effect of selling the renewable attributes of exported electricity to the
31 standard buyer and explains how a customer may participate in the voluntary renewable
32 energy credit market.

33 The commission shall establish a mechanism to allow a residential or small business
34 customer who has entered into a long-term contract under this section to purchase
35 renewable energy credits equivalent to those the customer has sold to the standard solar
36 buyer at a price equal to 80% of market value.

37 **9. Consumer-owned utility exemption.** This section does not apply to a consumer-
38 owned transmission and distribution utility and its customers.

39 **10. Rules.** The commission shall provisionally adopt rules to implement this section
40 by December 31, 2016. Rules adopted under this subsection are major substantive rules
41 as defined in Title 5, chapter 375, subchapter 2-A.

42 **11. Program review.** By 18 months after the effective date of rules adopted
43 pursuant to subsection 10, or when 21 megawatts of capacity have been installed by

1 residential and small business customers pursuant to this section, whichever is earlier, the
2 commission shall initiate an expedited proceeding to determine whether:

3 A. The procurement targets in section 3475, subsection 4 are likely to be met through
4 2022; and

5 B. The total cost to all customers is likely to be less than if the procurement targets in
6 section 3475, subsection 4 were installed under the commission's net energy billing
7 rules.

8 If the commission concludes that both conditions under paragraphs A and B will be met,
9 the rules established pursuant to subsection 10 remain in effect, and net energy billing
10 pursuant to section 3209-A is not available to new customers in the future.

11 If the commission concludes that the condition under paragraph A or B will not be met,
12 the commission shall make findings regarding the reasons the condition will not be met
13 and provide a report summarizing its conclusions to the joint standing committee of the
14 Legislature having jurisdiction over utility matters within 30 days of the start of the
15 Second Regular Session of the 129th Legislature. If the commission determines that the
16 rules adopted under this section can be modified to enable the program to meet
17 procurement targets or reduce costs so that the conditions under paragraphs A and B are
18 likely to be met in the future, it shall make and submit such changes to the Second
19 Regular Session of the 129th Legislature. If the commission determines that these rules
20 cannot be modified to meet these targets or reduce costs, the commission shall review its
21 net energy billing rules or recommend alternative mechanisms to support distributed
22 generation in a manner that benefits all ratepayers. If the commission does not propose
23 changes to the rules adopted pursuant to subsection 10 or new rules are not adopted
24 within 60 days of the adjournment of the Second Regular Session of the 129th
25 Legislature, net energy billing pursuant to section 3209-A must be made available to new
26 customers on that date.

27 **§3481. Bill credits**

28 This section applies to any credits assigned to a customer's bill under this chapter.

29 If the value of the credit to be applied to a customer's bill is less than the amount
30 owed by the customer at the end of the applicable billing period, the customer must be
31 billed for the difference between the amount shown on the bill and the value of the
32 available credits.

33 If the value of the credits to be applied to a customer's bill is greater than the amount
34 owed by the customer at the end of the billing period, the remaining value of the credit
35 must carry over from month to month until a specified date each year. The commission
36 shall establish a minimum of 2 standard credit expiration dates that provide customers the
37 opportunity to use bill credits to the maximum extent practicable in a given 12-month
38 period. Any remaining credits as of that date must be credited to the standard buyer and
39 may not be applied against any future customer bill.

40 **Sec. 7. Siting of solar distributed generation resources.** By January 1, 2019,
41 the Public Utilities Commission shall report to the joint standing committees of the
42 Legislature having jurisdiction over utility matters and natural resources matters the

1 number of new solar distributed generation resources procured pursuant to the Maine
2 Revised Statutes, Title 35-A, sections 3477 to 3479 that have been built on pre-existing
3 impervious surfaces or brownfields where future development is affected by the presence
4 or potential presence of a hazardous substance. The report must include measures to
5 encourage siting of distributed generation resources at such locations identified by the
6 commission in cooperation with the Department of Environmental Protection.

7 **SUMMARY**

8 This bill is reported out by the Joint Standing Committee on Energy, Utilities and
9 Technology pursuant to Resolve 2015, chapter 37, section 2. The resolve directed the
10 Public Utilities Commission to convene a stakeholder group to develop an alternative to
11 net energy billing. This bill reflects the consensus developed in that process and
12 subsequent negotiations between stakeholders and establishes a comprehensive
13 framework to support distributed generation in Maine.

14 The committee has not taken a position on the substance of this bill, and by reporting
15 this bill out, the committee is not suggesting and does not intend to suggest that it agrees
16 or disagrees with any aspect of this bill. The committee is reporting the bill out for the
17 sole purpose of turning the commission's proposal into a printed bill that can be referred
18 to the committee for an appropriate public hearing and subsequent processing in the
19 normal course. The committee is taking this action to ensure clarity and transparency in
20 the legislative review of the proposal.

21 The bill directs the Public Utilities Commission to enter into long-term contracts with
22 a duration of 20 years for the procurement of 248 megawatts of solar energy over a 5-year
23 period beginning in 2017. The bill specifies that 24% or 60 megawatts are to be allotted
24 to grid-scale solar distributed generation resources; 19% or 45 megawatts to large-scale
25 community solar distributed generation resources; 10% or 25 megawatts to commercial
26 and industrial distributed generation resources; and 47% or 118 megawatts to residential
27 and small business distributed generation resources.

28 The bill creates a standard buyer, which the bill specifies is the investor-owned
29 transmission and distribution utility in its service territory. The bill allows the
30 commission to designate another entity as the standard buyer if it determines it is in the
31 best interest of ratepayers to do so. The purpose of the standard buyer is to purchase the
32 output of each category of distributed generation resource, aggregate the portfolio of
33 distributed generation resources procured and sell it into the relevant New England
34 markets.

35 The bill directs the commission to conduct competitive solicitations for 20% of the 5-
36 year target procurement for long-term contracts for the output of grid-scale, large-scale
37 community, and commercial and industrial solar distributed generation. The frequency of
38 solicitation varies with the particular category of distributed generation resource. The bill
39 directs the commission and standard buyer to develop a contract prior to a solicitation that
40 will ensure that projects proceed to commercial operation on a reasonable timeline and
41 commits all parties to commercially reasonable behavior. The bill gives the commission
42 authority to establish requirements for bidder eligibility and standards to ensure

1 competition in the bidding process. The bill also specifies that if the solicitation is
2 deemed competitive the commission must select one or more winning bids and direct the
3 standard buyer to negotiate and enter into a contract with the winning bidder or bidders.
4 The bill requires the commission to select bids that maximize the benefits or minimize the
5 costs to all ratepayers.

6 The bill provides that residential and small business customers receive 20-year
7 contracts at a set price for new distributed generation resources that are 250 kilowatts or
8 less. The bill specifies that those customers would have the option of selling their entire
9 output or using their generation to offset their electric consumption with the ability to sell
10 any excess electricity at prices established under the contracts. The bill provides that the
11 commission would set the contract price and the price new customers receive would
12 decrease over time as the installations increase. Contract prices set by the commission
13 must be high enough to meet the specified targets but be below a cap on the overall cost
14 of this portion of the program. The bill also allows the commission to establish a rate
15 adjustment mechanism to increase rates for new customers to increase the number of
16 installations and to meet targets.

17 The bill specifies that existing net metering customers may continue to net meter
18 under commission rules for 12 years after the effective date of major substantive rules
19 adopted as required by the bill to implement the residential and small business solar
20 program. The bill allows existing net metering customers to enter into a long-term
21 contract under the new program, but does not allow new customers to participate in net
22 metering.

23 The bill requires the commission to initiate a proceeding 18 months after the effective
24 date of major substantive rules adopted to implement the residential and small business
25 solar program, or 21 megawatts of capacity has been installed, whichever is sooner, to
26 determine if installation targets are likely to be met by 2022, and the total cost to all
27 customers is likely to be less using long-term contracts, rather than net metering. The bill
28 specifies that if the commission does not find that installation targets are going to be met
29 and long-term contracts are not going to be more cost-effective than net metering, the
30 commission may modify the rules, with legislative approval, to meet the goals and reduce
31 costs. If the rules cannot be modified and the commission does not propose an alternative
32 to the Second Regular Session of the 129th Legislature, or if the Legislature fails to act,
33 then net metering will be available to new customers.

34 The bill also allows for a solar power offer, in addition to the existing green power
35 offer under the Maine Revised Statutes, Title 35-A, section 3212-A, that is available to all
36 residential and small commercial electricity customers. Like the green power offer, the
37 solar power offer sunsets on April 1, 2021.