

MAINE STATE LEGISLATURE

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Date: 4/5/18 Majority

L.D. 257
(Filing No. H- 720)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 190, L.D. 257, Bill, "An Act To Enable Municipalities Working with Utilities To Establish Microgrids"

Amend the bill by striking out the title and substituting the following:

'An Act To Allow Microgrids That Are in the Public Interest'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 35-A MRSA §2305-B, sub-§§1 and 2, as enacted by PL 2001, c. 110, §2, are amended to read:

1. Transmission and distribution utilities; microgrids. A transmission and distribution utility or a person who constructs, maintains or operates a new microgrid approved in accordance with section 3351, subsection 3 may construct and maintain its lines in, upon, along, over, across or under the roads and streets in any municipality in which it is authorized to supply electricity, subject to the conditions and restrictions provided in this chapter and chapter 25.

2. Persons other than transmission and distribution utilities. A person other than a transmission and distribution utility or person who constructs, maintains or operates a new microgrid approved in accordance with section 3351, subsection 3 may not construct or maintain electric lines, including poles or other related structures, in, upon, along, over, across or under a road, street or other public way unless:

- A. The person satisfies the requirements of section 2503;
- B. The person or the person's contractor hired to construct the line provides to the applicable licensing authority a performance bond:
 - (1) In the amount of the value of the line, including poles or other related structures, to be located in the public way; and
 - (2) That is enforceable for one year from the date the line is energized;

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1 C. Prior to constructing the line, the person notifies the transmission and distribution
2 utility in whose service territory the line is proposed to be built of the proposed
3 location of the line; and

4 D. If a public utility objects to the line on the basis that it may constitute a
5 duplication of existing transmission or distribution facilities or may interfere with the
6 adequate and safe delivery of electricity to others, the commission issues a finding
7 that the line is not a duplication of existing transmission or distribution facilities and
8 does not interfere with the adequate and safe delivery of electricity to others. A
9 finding is not required under this paragraph unless a public utility has objected in
10 writing to the applicable licensing authority.

11 **Sec. 2. 35-A MRSA c. 33-A is enacted to read:**

12 **CHAPTER 33-A**

13 **MICROGRIDS**

14 **§3351. Microgrids**

15 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the
16 following terms have the following meanings.

17 A. "Distributed energy resources" means small-scale electrical generation sources
18 located close to where the generated electricity is used.

19 B. "New microgrid" means a group of interconnected loads and distributed energy
20 resources within clearly defined electrical boundaries that acts as a single controllable
21 entity with respect to the electric grid and can connect and disconnect from the
22 electric grid to enable the new microgrid to operate in both electric grid-connected
23 mode and nongrid-connected mode, also referred to as island mode, and that is
24 constructed after April 1, 2018.

25 **2. Microgrids, public utility exception.** Notwithstanding section 2102 or any other
26 provision of this Title, a person that constructs, maintains or operates a new microgrid
27 approved under subsection 3 does not, as a result of furnishing service through that new
28 microgrid to participating consumers, become a public utility and is not subject to
29 regulation as a public utility under this Title.

30 **3. Commission approval.** The commission shall approve a petition to construct and
31 operate a new microgrid if the commission finds that operation of the new microgrid is in
32 the public interest and the new microgrid meets at least the following requirements:

33 A. The proposed new microgrid will serve a total load of no more than 10
34 megawatts;

35 B. The distributed energy resources for the new microgrid meet the portfolio
36 requirements in section 3210, subsections 3 and 3-A;

37 C. The person proposing the new microgrid demonstrates that the person has the
38 financial capacity to operate the proposed new microgrid;

39 D. The person proposing the new microgrid demonstrates the technical capability to
40 operate the proposed new microgrid;

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1 E. There is a relationship between the proposed new microgrid operator and
2 consumers within the area to be served by the proposed new microgrid;

3 F. The person proposing, owning or operating the new microgrid is not an investor-
4 owned transmission and distribution utility, an affiliate of an investor-owned
5 transmission and distribution utility or an affiliated interest of an investor-owned
6 transmission and distribution utility; and

7 G. The proposed new microgrid will not negatively affect the reliability and security
8 of the electrical system.

9 For the purposes of this subsection, when determining whether a proposed new microgrid
10 is in the public interest, the commission may consider possible ratepayer effects, whether
11 positive or negative, benefits due to the increased resilience or reliability of the electric
12 grid, economic development benefits or any other factors the commission considers
13 necessary to promote the public interest.

14 In granting its approval, the commission shall impose such terms, conditions or
15 requirements on the construction, maintenance or operation of the new microgrid as, in its
16 judgment, it considers necessary.

17 4. Participant; grid protections. A new microgrid approved in accordance with
18 subsection 3 is subject to commission oversight to ensure reliability and security of the
19 electrical system and consumer protections for new microgrid consumers.

20 **Sec. 3. Report.** The Public Utilities Commission shall submit a report by January
21 15, 2020 to the joint standing committee of the Legislature having jurisdiction over
22 energy and utility matters detailing its activities related to new microgrids as defined in
23 the Maine Revised Statutes, Title 35-A, section 3351, subsection 1, paragraph B,
24 including whether any new microgrids have been approved under Title 35-A, section
25 3351. The report must also include any recommendations for legislation that may be
26 necessary to clarify or enhance the law regarding new microgrids. The committee may
27 report out a bill to the Second Regular Session of the 129th Legislature based on the
28 report.'

29 **SUMMARY**

30 This amendment is the majority report of the committee and it replaces the bill, which
31 is a concept draft. It directs the Public Utilities Commission to approve a petition to
32 construct and operate a new microgrid if the commission finds the proposal to be in the
33 public interest and the new microgrid meets other specified requirements. It provides the
34 commission with the ability to impose such terms, conditions or requirements as, in its
35 judgment, it considers necessary in approving a new microgrid and also gives the
36 commission oversight to ensure reliability and security of the electrical system and
37 consumer protections for new microgrid consumers. It specifies that a new microgrid
38 does not become a public utility as a result of its furnishing electrical service to
39 participating consumers. It provides that a new microgrid that has been approved by the
40 commission may construct, maintain or operate its lines in, upon, along, over, across or

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under the roads and streets. The amendment directs the Public Utilities Commission to submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters by January 15, 2020.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 257

LR 2117(02)

An Act To Enable Municipalities Working with Utilities To Establish Microgrids

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-720)

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Public Utilities Commission resulting from changes to the rules regarding the criteria for the approval, operation and review of microgrids are anticipated to be minor and can be absorbed within existing budgeted resources.