

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1711

S.P. 565

In Senate, May 9, 2019

### **An Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine**

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator DOW of Lincoln.  
Cosponsored by Representative COREY of Windham and  
Senators: BLACK of Franklin, President JACKSON of Aroostook, LAWRENCE of York,  
MOORE of Washington, POULIOT of Kennebec, Representatives: Speaker GIDEON of  
Freeport, GROHOSKI of Ellsworth.



1 distributed generation resource" means a distributed generation resource as defined by  
2 section 3471-A, subsection 5 that is installed after August 1, 2019.

3 **2. Distributed generation resource tariff rate.** If the commission determines that  
4 the most cost-effective method, including the minimization of costs to ratepayers, of  
5 promoting new distributed generation resources for nonresidential customers under  
6 subsection 1 is the establishment of a tariff rate for the nonresidential customers, the  
7 commission may establish a pilot program for a tariff rate effective January 1, 2020. The  
8 pilot program must be limited to no more than 40 megawatts in total. The pilot program  
9 tariff rate must be no more than the standard-offer service rate under section 3212 for the  
10 rate class that includes the smallest commercial customers plus as small a percentage of  
11 the effective transmission and distribution rate for the rate class that includes the smallest  
12 commercial customers as the commission determines will achieve the purpose of this  
13 section. A customer who elects the tariff rate is eligible for the rate for a period of no less  
14 than 20 years. The commission shall publish the tariff rate for new customers in the  
15 following year by December 1st each year or January 1st for use in the year 2020.

16 The commission shall allow a customer to participate in the pilot program if the customer  
17 has a financial interest in a distributed generation resource as defined in section 3471-A,  
18 subsection 5, including facility ownership, a lease agreement or a power purchase  
19 agreement.

20 **3. Report.** The commission shall submit a report on the benefits and costs of the  
21 pilot program under subsection 2 to the joint standing committee of the Legislature  
22 having jurisdiction over energy matters no later than January 1, 2025 and by January 1st  
23 for every subsequent 5 years that the pilot program is in effect. The report must provide  
24 information about the total value to the electrical system of output from distributed  
25 generation resources participating in the program and total costs to transmission and  
26 distribution utilities over both the short and long term. The commission may recommend  
27 modification of future tariff rates or discontinuance of the pilot program.

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

31 **Sec. A-5. 35-A MRSA §3471-A** is enacted to read:

32 **§3471-A. Definitions**

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

35 **1. Bid rate.** "Bid rate" means the rate proposed under a qualified bid for the output  
36 of a distributed generation resource in response to a competitive procurement solicitation.

37 **2. Clearing price.** "Clearing price" means the highest bid rate accepted by the  
38 commission received for a procurement target under this chapter.

1           **3. Commercial or institutional customer.** "Commercial or institutional customer"  
2 means a nonresidential customer of an investor-owned transmission and distribution  
3 utility in the State.

4           **4. Credit rate.** "Credit rate" means the per kilowatt-hour rate used to calculate the  
5 monetary value of a distributed generation resource. The credit rate is equal to the per  
6 kilowatt-hour rate in the long-term contracts entered into between a standard buyer or a  
7 transmission and distribution utility and a project sponsor and must be the same for all  
8 subscribers of a particular large-scale shared distributed generation resource.

9           **5. Distributed generation resource.** "Distributed generation resource" means an  
10 electric generating facility with a nameplate capacity of no more than 5 megawatts that  
11 uses a renewable fuel or technology under section 3210, subsection 2, paragraph B-3 and  
12 is located in the service territory of a transmission and distribution utility in the State.

13           **6. Investor-owned transmission and distribution utility.** "Investor-owned  
14 transmission and distribution utility" has the same meaning as in section 3104, subsection  
15 1, paragraph A.

16           **7. Kilowatt.** "Kilowatt" means 1,000 watts, measured in alternating current.

17           **8. Kilowatt-hour.** "Kilowatt-hour" means one kilowatt of power sustained for one  
18 hour.

19           **9. Large-scale shared distributed generation resource.** "Large-scale shared  
20 distributed generation resource" means a distributed generation resource that is selected  
21 in a procurement under section 3477 the beneficial use of the output of which is owned  
22 by or allocated to subscribers.

23           **10. Megawatt.** "Megawatt" means 1,000,000 watts, measured in alternating current.  
24 When used in reference to a generation resource, a megawatt is measured by the  
25 generator's nameplate capacity.

26           **11. Nameplate capacity.** "Nameplate capacity" means the installed or rated  
27 capacity of a power generator.

28           **12. Offer.** "Offer" means a proposal to install a distributed generation resource of a  
29 specified capacity in exchange for a contract with a standard buyer under section 3475.

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

33           **14. Project sponsor.** "Project sponsor" means an entity or its successor or assignee  
34 that owns or operates a large-scale shared distributed generation resource on behalf of  
35 subscribers.

36           **15. Qualified bid.** "Qualified bid" means a bid offering the output from a  
37 distributed generation resource that the commission determines meets the minimum  
38 qualification requirements established by rule.

1           **16. Qualified person.** "Qualified person" means a person who installs photovoltaic  
2 equipment and who:

3           A. Possesses a license under Title 32, section 1202-A, subsection 2 or 4;

4           B. Is enrolled in a United States Department of Labor or Department of Labor  
5 registered electrical apprenticeship program and supervised by a person under  
6 paragraph A; or

7           C. Possesses a license under Title 32, section 1202-A, subsection 1 or 3 and is  
8 supervised by a person under paragraph A.

9           **17. Rate.** "Rate" means a price per kilowatt-hour of delivered energy as measured  
10 by a revenue-quality meter at a distributed generation resource's point of connection to  
11 the electric grid.

12           **18. Subscriber.** "Subscriber" means a retail customer of a transmission and  
13 distribution utility that owns or has the right to a subscription and that has identified an  
14 account to which the subscription is attributed.

15           **19. Subscription.** "Subscription" means a proportional interest in a large-scale  
16 shared distributed generation resource. Each subscription must be sized to represent at  
17 least one kilowatt of the resource's generating capacity.

18           **Sec. A-6. 35-A MRSA §3473, sub-§§3 to 6** are enacted to read:

19           **3. Procurements.** The commission shall procure distributed generation resources in  
20 the large-scale shared and commercial or institutional market segments using the targets  
21 and procurement methods described in this chapter.

22           **4. Participation in wholesale markets.** The commission and investor-owned  
23 transmission and distribution utilities shall take all commercially reasonable steps to  
24 promote the participation of distributed generation resources in serving the State's energy  
25 needs and in the wholesale electricity, capacity and ancillary service markets.

26           **5. Change in tax treatment.** If a change in federal tax laws, rules or policy  
27 materially modifies the burdens or costs to customers or utilities associated with the  
28 procurements under this chapter, the commission shall issue a report to the joint standing  
29 committee of the Legislature having jurisdiction over energy matters describing the  
30 impact of these changes and recommending any actions necessary to maintain the  
31 benefits of the procurements under this chapter.

32           **6. Timely interconnection.** The commission shall ensure the timely review and  
33 execution of interconnection requests and the timely completion of work needed for the  
34 safe, reliable and cost-effective interconnection of distributed generation resources. The  
35 commission shall establish by rule requirements on investor-owned transmission and  
36 distribution utilities governing the interconnection process for distributed generation  
37 resources and establishing financial penalties to assure timely actions by those utilities to  
38 achieve the procurements under sections 3476 and 3477. Rules adopted under this  
39 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1           **Sec. A-7. 35-A MRSA §§3475 to 3478** are enacted to read:

2           **§3475. Standard buyer**

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

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

12           **2. Obligations of standard buyer.** A standard buyer shall:

13           A. Serve as counterparty to long-term contracts with project sponsors pursuant to  
14 section 3477;

15           B. If the standard buyer is not an investor-owned transmission and distribution  
16 utility, reimburse an investor-owned transmission and distribution utility for any bill  
17 credit or payment to a subscriber or project sponsor pursuant to section 3477;

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

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

22           E. Provide aggregate data regarding the output of distributed generation resources  
23 pursuant to sections 3476 and 3477.

24           **3. Standard buyer cost allocation.** The commission and each standard buyer  
25 designated pursuant to subsection 1 shall implement a transparent mechanism to track and  
26 recover or distribute the eligible costs and benefits under this subsection incurred by  
27 procuring distributed generation resources pursuant to this chapter. These eligible costs  
28 and benefits must be reviewed by the commission annually and allocated to and  
29 recovered from customers of the investor-owned transmission and distribution utility in  
30 whose territory the distributed generation resource is located through a process  
31 established by rule of the commission. The process established by the commission must  
32 be similar to the allocation of costs and benefits of long-term energy contracts in section  
33 3210-F. Eligible costs and benefits include:

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

35           B. All payments or bill credits to customers, subscribers and project sponsors under  
36 each procurement pursuant to sections 3476 and 3477; and

37           C. All revenue from sale of the output of distributed generation resources procured  
38 pursuant to this chapter.

1           **4. Rules.** The commission shall adopt rules to implement this section. Rules adopted  
2 under this subsection are routine technical rules as defined in Title 5, chapter 375,  
3 subchapter 2-A. The commission shall ensure that the rules and procedures established  
4 under this chapter provide opportunities for entities other than the standard buyer to  
5 aggregate and sell the output of distributed generation resources in the applicable  
6 markets.

7           **§3476. Commercial or institutional resources procurement**

8           **1. Procurement amounts.** By July 1, 2024, the commission shall procure 125  
9 megawatts of the output of distributed generation resources associated with commercial  
10 or institutional customer accounts by conducting an initial competitive solicitation of 25  
11 megawatts to establish market-based, declining block contract rates to procure the  
12 remaining 100 megawatts.

13           **2. Initial competitive procurement.** The following standards apply to the initial  
14 competitive procurement under subsection 1 of distributed generation resources from  
15 commercial or institutional customers:

16           A. On or before January 1, 2020, the commission shall publish rules for the initial  
17 competitive solicitation of 25 megawatts of distributed generation resources under  
18 subsection 1. The publication must include the form of contract provided under  
19 subsection 8;

20           B. The commission shall accept bids for 30 calendar days beginning on or before  
21 July 1, 2020 and review the bids based on the requirements under subsections 5, 6  
22 and 7. The commission may select qualified bids in excess of 25 megawatts if the  
23 commission determines that the incremental procurement is in the public interest. If  
24 the commission selects qualified bids in excess of 25 megawatts, the commission  
25 shall reduce the quantity procured in subsequent block procurements. If the  
26 commission selects bids totaling less than 25 megawatts in the initial competitive  
27 procurement, the quantity procured in subsequent block procurements must increase  
28 by the difference between 25 megawatts and the number of megawatts submitted in  
29 the initial competitive procurement. If pursuant to subsections 5 and 6 no bids are  
30 accepted, the commission shall:

31                   (1) Conduct a new initial competitive procurement under this subsection within 9  
32 months; and

33                   (2) Study the reasons for the inability of the procurement to secure the target  
34 amount and submit a report of its findings and any recommended legislation to  
35 the joint standing committee of the Legislature having jurisdiction over energy  
36 matters;

37           C. The commission shall issue a public notice of the procurement results no later  
38 than 30 calendar days after the bid acceptance period has ended. The public notice  
39 must include the name, sponsor, size and location of each selected project and the  
40 awarded contract price; and



1           D. The applicable standard buyer shall enter into a contract with the selected project  
2           or projects for a term of 20 years at a specified contract rate equal to the clearing  
3           price to be paid as a bill credit to the commercial or institutional customer.

4           **3. Subsequent block contract rate procurements.** Subsequent to the initial  
5           competitive procurement under subsection 2, the remaining procurement must proceed  
6           pursuant to the following:

7           A. The commission shall procure 4 additional blocks of contracted distributed  
8           generation resources to meet the overall procurement goal of subsection 1. Each  
9           procurement block size equals 1/4 of the difference between 125 megawatts and the  
10           quantity procured under subsection 2. These blocks are numbered sequentially,  
11           starting with 2. Subsequent procurements are assigned to a particular block, starting  
12           with procurement block 2 and finishing with procurement block 5;

13           B. The block contract rate for procurement block 2 must equal 97% of the clearing  
14           price determined in subsection 2. Each successive procurement block must have a  
15           block contract rate equal to 97% of the preceding block;

16           C. Blocks 2 to 5 must be opened immediately following the initial competitive  
17           procurement for bids qualifying under subsection 5;

18           D. The applicable standard buyer shall enter into a contract with each qualified  
19           project for a term of 20 years at a specified contract rate equal to the block contract  
20           rate of the procurement block then open and paid as a bill credit to the commercial or  
21           institutional customer; and

22           E. Each contract awarded pursuant to this subsection reduces the available capacity  
23           in a procurement block, with the earliest awards reducing the lowest numbered  
24           procurement block that has remaining capacity. If an awarded contract exceeds the  
25           remaining capacity of its procurement block, the contract rate is set at the block  
26           contract rate for the block filled by this award and any overprocurement in one block  
27           is subtracted from the quantity available in the next block. If a contract award  
28           exceeds the capacity of procurement block 5, the entire quantity of the offer is  
29           awarded at the block contract rate for procurement block 5 and no further contracts  
30           may be awarded except under subsection 8.

31           **4. Failure to complete timely procurement.** If any procurement block remains  
32           unfilled for more than 12 months from the time the previous block was filled:

33           A. The commission shall suspend procurements under subsection 3 pending  
34           completion of the process described in this subsection;

35           B. The commission shall review and may amend the rules published under  
36           subsection 2, paragraph A or the standard contract under subsection 8 for a new  
37           competitive procurement of long-term contracts for the output of at least 25  
38           megawatts of distributed generation resources as part of the procurement goal in  
39           subsection 1. The commission shall publish any amendments and a new bid  
40           acceptance period for not less than 6 months and not more than 9 months;

41           C. The commission shall accept bids for 30 calendar days from the date established  
42           in paragraph B and review the bids based on the requirements set forth in subsections

1 5, 6 and 7 and the published rules. The commission may select qualified bids in  
2 excess of 25 megawatts if the commission determines that the incremental  
3 procurement is in the public interest and the incremental procurement reduces the  
4 quantity procured in subsequent procurements.

5 D. The commission shall issue a public notice of the procurement results no later  
6 than 30 calendar days after the bid acceptance period has ended. The public notice  
7 must include the name, sponsor, size and location of each selected project and the  
8 awarded contract price;

9 E. The applicable standard buyer shall enter into a contract with the selected project  
10 or projects for a term of 20 years at a specified contract rate equal to the highest  
11 selected offer rate as adjusted under subsection 7 to be paid as a bill credit to the  
12 commercial or institutional customer;

13 F. The commission shall reopen procurements under subsection 3 unless no contracts  
14 are awarded under paragraph E. The quantity procured under paragraph C must be  
15 subtracted from the current procurement block and the block contract rate for that  
16 procurement block must be set at the clearing price set under paragraph E. The block  
17 contract rate for each subsequent procurement block must be set at 97% of the newly  
18 established rate for the preceding procurement block; and

19 G. If no contracts are awarded under paragraph E, the commission shall conduct  
20 another competitive solicitation under this subsection with the bid acceptance period  
21 to open approximately 12 months after the bid acceptance period determined in  
22 paragraph B. The commission shall also examine the reasons for the inability of the  
23 procurement to secure the target amount and submit a report of its findings and any  
24 recommended legislation to the joint standing committee of the legislature having  
25 jurisdiction over energy matters.

26 **5. Bid or offer qualification.** The commission shall establish minimum  
27 requirements for bids or offers in a solicitation under this section, including:

28 A. Demonstration of site control;

29 B. If a participating commercial or institutional customer is not the party making the  
30 bid, an agreement from a customer that would receive bill credits under subsection 9;

31 C. A fully executed interconnection service agreement with an investor-owned  
32 transmission and distribution utility;

33 D. A plan and schedule to obtain all required federal, state and local permits and  
34 approvals for the project; and

35 E. The capacity to make a financial assurance deposit at the time a contract is signed.

36 A photovoltaic project must employ qualified persons for the complete installation and  
37 electrical maintenance of the distributed generation resource under standards required by  
38 the Electricians' Examining Board under Title 32, section 1153-A. A bid may not be  
39 accepted for a distributed generation resource located on prime farmland as defined by  
40 the United States Department of Agriculture and delineated by the Department of  
41 Agriculture, Conservation and Forestry. The commission may by rule require a bidder to  
42 pay a reasonable bidding fee to defray administrative costs.

1           **6. Ensuring competition.** Prior to each solicitation under subsections 2 to 4, the  
2 commission shall establish standards to ensure that the solicitation has a sufficient  
3 number of unique bidders and quantity of qualified bids to be determined competitive. If  
4 the commission concludes that a solicitation is not competitive, the commission may  
5 reduce the target procurement quantities to the highest level, including zero, that may be  
6 procured consistent with this subsection and shall defer to subsequent solicitations the  
7 capacity reduced in the solicitation.

8           **7. Bid selection.** Following a review of bids received in the solicitations under  
9 subsections 2 to 4, and after any adjustment to the target quantity under subsection 6, the  
10 commission shall select one or more winning bids that, in the aggregate, meet the target  
11 procurement quantity. If there are multiple qualified bids at the same offer rate, the  
12 commission shall give preference to the qualified bid or bids that minimize the cost to the  
13 standard buyers or, if there is no difference in cost, to the bid that was submitted first.

14           In evaluating bids in a competitive solicitation, the commission shall evaluate a qualified  
15 bid for a project that is located on previously developed or impacted land at 90% of the  
16 offered rate. Previously developed or impacted land must include areas covered by  
17 impervious surfaces, capped landfills or brownfield sites as defined by the Department of  
18 Environmental Protection. If a bid under this subsection is accepted, the contract rate for  
19 each accepted bid for a project located on previously developed or impacted land must be  
20 paid a rate equal to the clearing price.

21           **8. Standard contract and milestones.** Prior to a solicitation, the commission shall  
22 provide, in consultation with the standard buyer or standard buyers, a standard contract  
23 that commits the standard buyer and a project sponsor to commercially reasonable  
24 behavior and includes provisions including an interconnection fee list and interconnection  
25 schedule to ensure that the project proceeds to commercial operation on a reasonable  
26 timeline. The standard contracts for all standard buyers must be substantially identical to  
27 the extent commercially reasonable.

28           A qualified project must be mechanically operable within 18 months of being awarded a  
29 contract. The commission may grant an extension for good cause. If a project fails to  
30 meet a milestone, the project sponsor is in default and the sponsor's contract must be  
31 cancelled. The capacity associated with a cancelled project must be added to the currently  
32 open procurement block. If procurement block 5 has been filled and procurements closed,  
33 the defaulted quantity must be added to procurement block 5 and new offers must be  
34 accepted under subsection 3.

35           **9. Determination of bill credit.** The bill credit allocated to a commercial or  
36 institutional customer must be based on the total kilowatt-hours of energy production of  
37 the distributed generation resource for the previous month. For each billing month, the  
38 value of the credit must be calculated by multiplying the number of kilowatt-hours by the  
39 contract rate. A payment to a commercial or institutional customer must be credited  
40 against the customer's monthly electricity bill in accordance with section 3478. The  
41 monthly energy production must be determined by a revenue-grade meter installed and  
42 paid for by the participating commercial or institutional customer.

1           **10. Exemption.** A customer is not considered a public utility or competitive  
2 electricity provider solely as a result of entering into a contract with a standard buyer  
3 under this section.

4           **11. Rules.** The commission shall adopt rules to implement this section by January 1,  
5 2020. Rules adopted under this subsection are routine technical rules as defined in Title 5,  
6 chapter 375, subchapter 2-A.

7           **§3477. Large-scale shared resources procurement**

8           **1. Procurement amounts.** By July 1, 2024, the commission shall procure 250  
9 megawatts of the output of large-scale shared distributed generation resources by  
10 conducting an initial competitive solicitation of 50 megawatts to establish market-based,  
11 declining block contract rates to procure the remaining 200 megawatts.

12           **2. Initial competitive procurement.** The following standards apply to the initial  
13 competitive procurement of large-scale shared distributed generation resources:

14           A. On or before January 1, 2020, the commission shall publish rules for the  
15 competitive solicitation of long-term contracts for the output of 50 megawatts of  
16 large-scale shared distributed generation resources under subsection 1. The  
17 publication must include the form of contract provided under subsection 8;

18           B. The commission shall accept bids for 30 calendar days, beginning on or before  
19 July 1, 2020, and review the bids based on the requirements under subsections 5, 6  
20 and 7. The commission may select qualified bids in excess of 50 megawatts if the  
21 commission determines that the incremental procurement is in the public interest. If  
22 the commission selects qualified bids in excess of 50 megawatts, the commission  
23 shall reduce the quantity procured in subsequent block procurements. If the  
24 commission selects bids totaling less than 50 megawatts in the initial competitive  
25 procurement, the quantity procured in subsequent block procurements must increase  
26 by the difference between 50 megawatts and the number of megawatts submitted in  
27 the initial competitive procurement. If pursuant to subsections 5 and 6 no bids are  
28 accepted, the commission shall:

29           (1) Conduct a new initial competitive procurement under this subsection within 9  
30 months; and

31           (2) Study the reasons for the inability of the procurement to secure the target  
32 amount and submit a report of its findings and any recommended legislation to  
33 the joint standing committee of the Legislature having jurisdiction over energy  
34 matters;

35           C. The commission shall issue a public notice of the procurement results no later  
36 than 30 calendar days after the bid acceptance period has ended. The public notice  
37 must include the name, sponsor, size and location of each selected project and the  
38 awarded contract price; and

39           D. The applicable standard buyer shall enter into a contract with the selected project  
40 or projects for a term of 20 years at the clearing price to be paid as a bill credit to the  
41 subscribers.

1           **3. Subsequent block contract rate procurements.** Subsequent to the procurement  
2 of capacity under subsection 2, the remaining procurement must proceed pursuant to the  
3 following:

4           A. The commission shall procure 4 additional blocks of contracted distributed  
5 generation resources to meet the overall procurement goal of subsection 1. Each  
6 procurement block size equals 1/4 of the difference between 250 megawatts and the  
7 quantity procured under subsection 2. These blocks are numbered sequentially,  
8 starting with 2. Subsequent procurements are assigned to a particular block, starting  
9 with procurement block 2 and finishing with procurement block 5;

10          B. The block contract rate for procurement block 2 must equal 97% of the clearing  
11 price determined in subsection 2. Each successive procurement block must have a  
12 block contract rate equal to 97% of the preceding block;

13          C. Blocks 2 to 5 must be open immediately following the initial competitive  
14 procurement for bids qualifying under subsection 5;

15          D. The applicable standard buyer shall enter into a contract with each qualified  
16 project for a term of 20 years at a specified contract rate equal to the block contract  
17 rate of the procurement block then open and paid as a bill credit to the subscribers;  
18 and

19          E. Each contract awarded pursuant to this subsection reduces the available capacity  
20 in a procurement block, with the earliest awards reducing the lowest numbered  
21 procurement block that has remaining capacity. If an awarded contract exceeds the  
22 remaining capacity of its procurement block, the contract rate is set at the block  
23 contract rate for the block filled by this award and any overprocurement in one block  
24 is subtracted from the quantity available in the next block. If a contract award  
25 exceeds the capacity of procurement block 5, the entire quantity of the offer is  
26 awarded at the block contract rate for procurement block 5 and no further contracts  
27 may be awarded except under subsection 8.

28           **4. Failure to complete timely procurement.** If any procurement block remains  
29 unfilled for more than 12 months from the time the previous block was filled:

30          A. The commission shall suspend procurements under subsection 3 pending  
31 completion of the process described in this subsection;

32          B. The commission shall review and may amend the rules published under  
33 subsection 2, paragraph A or the standard contract under subsection 8 for a new  
34 competitive procurement of long-term contracts for the output of at least 50  
35 megawatts of large-scale shared distributed generation resources as part of the  
36 procurement goal in subsection 1. The commission shall publish any amendments  
37 and a new bid acceptance period in not less than 6 months and not more than 9  
38 months;

39          C. The commission shall accept bids for 30 calendar days from the date established  
40 and review the bids based on the requirements set forth in subsections 5, 6 and 7 and  
41 the published rules. The commission may select qualified bids in excess of 50  
42 megawatts if the commission determines that the incremental procurement is in the

1 public interest and the incremental procurement reduces the quantity procured in  
2 subsequent procurements;

3 D. The commission shall issue a public notice of the procurement results no later  
4 than 30 calendar days after the bid acceptance period has ended. The public notice  
5 must include the name, sponsor, size and location of each selected project and the  
6 awarded contract price;

7 E. The applicable standard buyer shall enter into a contract with the selected project  
8 or projects for a term of 20 years at a specified contract rate equal to the highest  
9 selected bid rate as adjusted under subsection 7 to be paid as a bill credit to a  
10 subscriber;

11 F. The commission shall reopen procurements under subsection 3 unless no contracts  
12 are awarded under paragraph E. The quantity procured under paragraph C must be  
13 subtracted from the current procurement block and the block contract rate for that  
14 procurement block must be set at the clearing price set under paragraph E. The block  
15 contract rate for each subsequent procurement block must be set at 97% of the newly  
16 established rate for the preceding procurement block; and

17 G. If no contracts are awarded under paragraph E, the commission shall conduct  
18 another competitive solicitation under this subsection with the bid acceptance period  
19 to open approximately 12 months after the bid acceptance period determined in  
20 paragraph B. The commission shall also examine the reasons for the inability of the  
21 procurement to secure the target amount and submit a report of its findings and any  
22 recommended legislation to the joint standing committee of the Legislature having  
23 jurisdiction over energy matters.

24 **5. Bid qualification.** The commission shall establish minimum requirements for  
25 bids in a solicitation under this section, including:

26 A. Demonstration of site control;

27 B. Demonstration of experience fulfilling the obligation to subscribers of shared  
28 distributed generation resources;

29 C. A fully executed interconnection service agreement with an investor-owned  
30 transmission and distribution utility;

31 D. A plan and schedule to obtain all required federal, state and local permits and  
32 approvals for the project; and

33 E. The capacity to make a financial assurance deposit at the time a contract is signed.

34 A photovoltaic project must employ qualified persons for the complete installation and  
35 electrical maintenance of the distributed generation resource under standards required by  
36 the Electricians' Examining Board under Title 32, section 1153-A. A bid may not be  
37 accepted for a distributed generation resource located on prime farmland as defined by  
38 the United States Department of Agriculture and delineated by the Department of  
39 Agriculture, Conservation and Forestry. The commission may by rule require a bidder to  
40 pay a reasonable bidding fee to defray administrative costs.

1           **6. Ensuring competition.** Prior to each solicitation under subsections 2 to 4, the  
2 commission shall establish standards to ensure that the solicitation has a sufficient  
3 number of unique bidders and quantity of qualified bids to be determined competitive. If  
4 the commission concludes that a solicitation is not competitive, the commission may  
5 reduce the target procurement quantities to the highest level, including zero, that may be  
6 procured consistent with this subsection and shall defer to subsequent solicitations the  
7 capacity reduced in that solicitation.

8           **7. Bid selection.** Following a review of bids received in the solicitations under  
9 subsections 2 to 4, and after any adjustment to the target quantity under subsection 6, the  
10 commission shall select one or more winning bids that, in the aggregate, meet the target  
11 procurement quantity. If there are multiple qualified bids at the same bid rate, the  
12 commission shall give preference to the qualified bid or bids that minimize the cost to the  
13 standard buyers or, if there is no difference in cost, to the bid that was submitted first.

14           In evaluating bids in a competitive solicitation, the commission shall evaluate a qualified  
15 bid for a project that is located on previously developed or impacted land at 90% of the  
16 bid rate. Previously developed or impacted land must include areas covered by  
17 impervious surfaces, capped landfills or brownfield sites as defined by the Department of  
18 Environmental Protection. If a bid under this subsection is accepted, the contract rate for  
19 each accepted bid for a project located on previously developed or impacted land must be  
20 paid a rate equal the clearing price.

21           **8. Standard contract and milestones.** Prior to a solicitation, the commission shall  
22 provide, in consultation with the standard buyer or standard buyers, a standard contract  
23 that commits the standard buyer and a project sponsor to commercially reasonable  
24 behavior and includes provisions including an interconnection fee list and interconnection  
25 schedule to ensure that the project proceeds to commercial operation on a reasonable  
26 timeline. The standard contracts for all standard buyers must be substantially identical to  
27 the extent commercially reasonable.

28           A qualified project must be mechanically operable within 18 months of being awarded a  
29 contract. The commission may grant an extension for good cause. If a project fails to  
30 meet a milestone, the project sponsor is in default and the sponsor's contract must be  
31 cancelled. The capacity associated with a cancelled project must be added to the currently  
32 open procurement block. If procurement block 5 has been filled and procurements closed,  
33 the defaulted quantity must be added to procurement block 5 and new offers must be  
34 accepted under subsection 3.

35           **9. Payment and minimum subscription.** The project sponsor and subscribers must  
36 receive the contract rate for the output of a large-scale shared distributed generation  
37 resource that is fully subscribed. For any portion not subscribed, the project sponsor must  
38 receive the wholesale rate. Requirements for minimum subscriptions include:

39           A. At least 50% of the total nameplate capacity of a large-scale shared distributed  
40 generation resource must be subscribed by subscriptions of 25 kilowatts or less or at  
41 least 20% of the total nameplate capacity must be subscribed by subscriptions of 25  
42 kilowatts or less if subscriptions from a municipality or units of municipal  
43 government account for more than 30% of the total nameplate capacity, unless  
44 subscriptions from a municipality or units of municipal government account for more

1 than 50% of the total nameplate capacity of a large-scale shared distributed  
2 generation resource; and

3 B. At least:

4 (1) Ten percent of the total nameplate capacity of a large-scale shared distributed  
5 generation resource must be subscribed by households with low or moderate  
6 income or by organizations serving low or moderate income households if the  
7 subscriptions serve to directly reduce the electricity costs for low or moderate  
8 income households; or

9 (2) If a municipality or unit of municipal government accounts for more than  
10 50% of the subscriptions to a large-scale shared distributed generation resource,  
11 5% of the total nameplate capacity of the large-scale shared distributed  
12 generation resource must be subscribed by households with low or moderate  
13 income or by organizations serving low or moderate income households if the  
14 subscriptions serve to directly reduce the electricity costs for low or moderate  
15 income households.

16 Subscriptions from municipalities or units of municipal government may not account for  
17 more than 70% of the nameplate capacity of a large-scale shared distributed generation  
18 resource. For the purposes of this subsection, "low or moderate income" means up to 80%  
19 the median income for the county or metropolitan area as determined by the Maine State  
20 Housing Authority.

21 **10. Determination of subscriber bill credit.** The bill credit allocated to each  
22 subscriber from a large-scale shared distributed generation resource must be based on the  
23 subscriber's percentage interest of the total production of the large-scale shared  
24 distributed generation resource for the previous month. For each billing month, the value  
25 of the credit allocated to a subscriber must be calculated by multiplying the number of  
26 kilowatt-hours constituting the subscriber's share by the contract rate. On a monthly basis,  
27 the project sponsor shall provide to the investor-owned transmission and distribution  
28 utility in a standardized and electronic format a list of subscribers and subscriber  
29 information required to calculate the bill credit to be provided to each subscriber. A credit  
30 to a subscriber must be applied against the subscriber's monthly electricity bill in  
31 accordance with section 3478 no later than one billing month following the month during  
32 which the energy was generated by the large-scale shared distributed generation resource.  
33 The investor-owned transmission and distribution utility shall provide a monthly record  
34 to the project sponsor of the credit applied to a subscriber within a month after the credits  
35 are applied to the subscriber's bill.

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

38 **11. Exemption.** A project sponsor or subscriber is not considered a public utility or  
39 competitive electricity provider solely as a result of the project sponsor's or subscriber's  
40 interest or participation in a large-scale shared distributed generation resource.

41 **12. Renewable energy credits.** Prior to a project sponsor's entering into a contract  
42 with a subscriber under this section, the commission shall provide to the sponsor a  
43 standard disclosure to be distributed by the sponsor to all participating subscribers that



1 describes the effect of selling the renewable attributes of exported electricity to the  
2 standard buyer and explains how a subscriber may participate in the voluntary renewable  
3 energy credit market. The commission shall establish a mechanism to allow a subscriber  
4 with a share of less than 25 kilowatts to purchase renewable energy credits up to the  
5 amount and of a substantially equivalent type to that the subscriber has sold to the  
6 standard buyer at a price equal to 80% of market value.

7 **13. Consumer protection.** The commission shall establish by rule consumer  
8 protection standards to protect subscribers from fraud and other unfair and deceptive  
9 business practices. The commission may impose administrative penalties under chapter  
10 15 upon a project sponsor and may order restitution for any party injured by a violation  
11 for which a penalty may be assessed pursuant to chapter 15.

12 The commission through its own counsel or through the Attorney General may apply to  
13 the Superior Court of any county of the State to enforce any lawful order made or action  
14 taken by the commission pursuant to this subsection and the court may issue any  
15 preliminary or final order that the court determines proper.

16 **14. Disclosures.** Prior to the sale or resale of a subscription in a large-scale shared  
17 distributed generation resource or proposed large-scale shared distributed generation  
18 resource, a project sponsor selling or reselling the subscription shall provide a disclosure  
19 to potential subscribers that includes the following:

20 A. A good faith estimate of the annual kilowatt-hours to be delivered by the large-  
21 scale shared distributed generation resource based on the size of the subscriber's  
22 interest;

23 B. A plain language explanation of the terms under which the bill credit under  
24 section 3478 will be calculated;

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

27 D. A plain language explanation of the costs and benefits to the potential subscriber,  
28 based on the subscriber's current usage and applicable tariff under section 3209-B for  
29 the term of the proposed contract.

30 The commission may establish a standard disclosure to be provided to potential  
31 subscribers by a project sponsor to disclose the information under this subsection and  
32 other information as the commission determines necessary to protect the interests of  
33 potential subscribers.

34 **15. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to  
35 the associated project sponsor or to any person or entity that qualifies to be a subscriber in  
36 the large-scale shared distributed generation resource. A project sponsor must provide a  
37 process for assignment or transfer of a subscription. A project sponsor may not impose  
38 transfer fees on a subscriber that moves to a different location within the same utility  
39 service territory.

40 **16. Project sponsor report.** One year after commercial operation of a large-scale  
41 shared distributed generation resource commences, the project sponsor must submit to the

1 commission a report detailing compliance with this subsection and subsections 10, 12, 14  
2 and 15.

3 17. Rules. By January 1, 2020, the commission shall adopt rules to implement this  
4 section. Rules adopted under this subsection are routine technical rules as defined in Title  
5 5, chapter 375, subchapter 2-A.

6 **§3478. Bill credits; utility costs paid by project sponsor**

7 **1. Credit assigned to a customer's bill.** If the value of a credit to be applied to a  
8 customer's bill under this chapter is less than the amount owed by the customer at the end  
9 of the applicable billing period, the customer must be billed for the difference between  
10 the amount shown on the bill and the value of the available credit. If the value of the  
11 credit to be applied to a customer's bill under this chapter is greater than the amount owed  
12 by the customer at the end of the billing period, the remaining value of the credit must  
13 carry over from month to month.

14 **2. Utility costs paid by project sponsor.** If a project sponsor pays an investor-  
15 owned transmission and distribution utility's costs associated with billing and collection  
16 from a subscriber, at the request of the project sponsor the utility shall bill the subscriber  
17 on behalf of the project sponsor. Costs under this subsection are subject to review by the  
18 commission.

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

22 **Sec. A-8. Reports.** By December 1, 2021, the Public Utilities Commission shall  
23 provide a report to the joint standing committee of the Legislature having jurisdiction  
24 over energy matters on the status of metering and billing system capabilities for investor-  
25 owned transmission and distribution utilities in the State. The report must include  
26 capabilities of systems to reliably offer time-differentiated rates for delivery and supply  
27 of energy; the commission's level of confidence in metering and billing systems to  
28 provide accurate information to utilities, consumers and the commission; the capacity of  
29 systems to accommodate rates for bidirectional flow of power for customers with  
30 distributed energy resources; and the degree to which systems are being used to achieve  
31 the smart grid policy goals under the Maine Revised Statutes, Title 35-A, section 3143.  
32 The commission shall report on any changes to rates or rules or other changes the  
33 commission intends to adopt to increase the effectiveness of systems under this paragraph  
34 and may make recommendations to the joint standing committee.

35 The joint standing committee of the Legislature having jurisdiction over energy  
36 matters may report out legislation based on any recommendations under this section to  
37 the Second Regular Session of the 130th Legislature.

38 **Sec. A-9. Evaluation.** The Public Utilities Commission shall evaluate net energy  
39 billing under the Maine Revised Statutes, Title 35-A, section 3209-A, when the total  
40 amount of generation capacity involved in net energy billing in the State reaches 8% of  
41 the total maximum load of transmission and distribution utilities in the State. The

1 commission shall evaluate the effectiveness of net energy billing in achieving state policy  
2 goals and providing benefits to ratepayers and submit a report to the joint standing  
3 committee of the Legislature having jurisdiction over energy matters with its findings.  
4 The joint standing committee may report out legislation based on the recommendations.

## 5 **PART B**

### 6 **Sec. B-1. Competitive solicitation; solar energy projects; long-term** 7 **contracts.**

8 1. By October 1, 2019, in accordance with the Maine Revised Statutes, Title 35-A,  
9 section 3210-C, except as otherwise provided by this section, the Public Utilities  
10 Commission shall conduct one or more competitive solicitations for proposals for a long-  
11 term contract to supply installed capacity and associated renewable energy and renewable  
12 energy credits from one or more solar energy projects. Subject to the requirements of this  
13 section, the commission shall direct one or more transmission and distribution utilities to  
14 execute a long-term contract of up to 20 years for the installed capacity and associated  
15 renewable energy and renewable energy credits of one or more solar energy projects. For  
16 purposes of this section, "solar energy project" means a solar photovoltaic generation  
17 facility that is connected to the electrical transmission and distribution system located in  
18 the State.

19 2. Following a review of proposals submitted in response to a competitive solicitation  
20 under subsection 1, the commission shall negotiate with one or more potential suppliers  
21 to supply no less than an aggregate total of 100 megawatts and no more than an aggregate  
22 total of 400 megawatts of installed capacity and associated renewable energy and  
23 renewable energy credits from one or more solar energy projects. The commission may  
24 direct one or more transmission and distribution utilities to execute a long-term contract  
25 with a supplier under this subsection if the commission determines that:

26 A. The potential supplier proposes the sale of renewable energy produced by a solar  
27 energy project;

28 B. The potential supplier has the technical and financial capacity to develop,  
29 construct, operate and, to the extent consistent with applicable federal law,  
30 decommission and remove the solar energy project;

31 C. The solar energy project will be constructed and operating within 5 years of the  
32 date the contract is executed, unless the commission and supplier negotiate a longer  
33 time period; and

34 D. The proposed contract:

35 (1) Represents the lowest-cost means of procuring solar energy;

36 (2) Will provide benefits to ratepayers that exceed the proposed costs to  
37 ratepayers; and

38 (3) Provides for a nominal levelized cost that is not greater than 3.5 cents per  
39 kilowatt-hour over the term of the contract. For purposes of this paragraph,  
40 "levelized cost" means an economic assessment of the cost of an energy-  
41 generating system including all the costs over its lifetime: initial investment,

1 operations and maintenance, fuel and capital measured at current value without  
2 adjusting for inflation.

3 3. If, following a competitive solicitation under subsection 1, the commission directs  
4 the execution of one or more contracts for an aggregate amount of capacity that is less  
5 than 400 megawatts, the commission shall conduct one or more further competitive  
6 solicitations pursuant to subsection 1 no less than every 24 months, unless the  
7 commission determines that a longer period of time between solicitations is likely to  
8 result in substantially lower contract prices. If the commission determines that the likely  
9 benefits to ratepayers resulting from a contract executed under the solicitation process  
10 will exceed the likely costs, the commission shall continue the solicitations until the  
11 aggregate amount of capacity contracted pursuant to this subsection reaches 400  
12 megawatts.

13 4. To mitigate any adverse impacts on electric rates of a long-term contract executed  
14 under this section, the commission shall require the supplier, as part of the long-term  
15 contract, to take advantage of future federal support that may become available to the  
16 supplier's project over the contract term.

17 5. The commission may approve only long-term contracts under this section that in  
18 the aggregate would result in an increase in electric rates no larger than the amount of the  
19 assessment charged under the Maine Revised Statutes, Title 35-A, section 10110,  
20 subsection 4-A at the time that the contract is executed. The commission may assess to a  
21 rate class associated with a contract only costs in an amount consistent with Title 35-A,  
22 section 10110, subsection 4-A.

23 6. The commission may adopt rules to carry out the purposes of this section. Rules  
24 adopted pursuant to this subsection are routine technical rules as defined by the Maine  
25 Revised Statutes, Title 5, chapter 375, subchapter 2-A.

26 **Sec. B-2. Reporting; review of terms and conditions for long-term**  
27 **contracts for solar energy.** By January 1, 2020 and by every January 1st of  
28 subsequent years in which a contract under this Part is in effect, the commission shall  
29 submit a report to the joint standing committee of the Legislature having jurisdiction over  
30 energy matters on the procurement of transmission capacity, capacity resources, energy  
31 and renewable energy credits under section 1 in the preceding 12 months. The report  
32 must contain information, including, but not limited to, the number of requests for  
33 proposals by the commission for long-term contracts, the number of responses to requests  
34 for proposals pursuant to which a contract has been finalized, the number of executed  
35 term sheets or contracts resulting from the requests for proposals, the commission's initial  
36 estimates of ratepayer costs or savings associated with any approved term sheet, actual  
37 ratepayer costs or savings for the previous year associated with any procurement, the total  
38 ratepayer costs or savings at the time of the report and the megawatt-hours, renewable  
39 energy credits or capacity produced or procured through contracts. The report must also  
40 include a plan for any subsequent procurement of capacity resources, energy and  
41 renewable energy credits under this Part, including dates for requests for proposals, and  
42 types of resources to be procured.



1 distributed generation resource may recover costs incurred on behalf of an investor-  
2 owned transmission and distribution utility;

3 4. Directing the Public Utilities Commission to report to the Legislature the results of  
4 the implemented tariff rates for distributed generation resources and the status of  
5 metering and billing system capabilities for investor-owned transmission and distribution  
6 utilities;

7 5. Directing the Public Utilities Commission to evaluate net energy billing when the  
8 total amount of generation capacity involved in net energy billing in the State reaches 8%  
9 of the total maximum load of transmission and distribution utilities in the State;

10 6. Directing the Public Utilities Commission to solicit bids for long-term contracts to  
11 supply up to 400 megawatts of electricity from solar energy projects; and

12 7. Directing the Executive Department, Governor's Energy Office to make  
13 recommendations to the Legislature regarding long-term contracts for installed capacity  
14 and associated renewable energy and renewable energy credits produced by solar energy  
15 projects.