

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1053

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H.P. 782

House of Representatives, March 11, 2021

### **An Act To Allow Microgrids That Are in the Public Interest**

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

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative GROHOSKI of Ellsworth.

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

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

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

10 **Sec. 2. 35-A MRSA §2305-B, sub-§2**, as enacted by PL 2001, c. 110, §2, is  
11 amended to read:

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

18 A. The person satisfies the requirements of section 2503;

19 B. The person or the person's contractor hired to construct the line provides to the  
20 applicable licensing authority a performance bond:

21 (1) In the amount of the value of the line, including poles or other related  
22 structures, to be located in the public way; and

23 (2) That is enforceable for one year from the date the line is energized;

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

27 D. If a public utility objects to the line on the basis that it may constitute a duplication  
28 of existing transmission or distribution facilities or may interfere with the adequate and  
29 safe delivery of electricity to others, the commission issues a finding that the line is not  
30 a duplication of existing transmission or distribution facilities and does not interfere  
31 with the adequate and safe delivery of electricity to others. A finding is not required  
32 under this paragraph unless a public utility has objected in writing to the applicable  
33 licensing authority.

34 **Sec. 3. 35-A MRSA c. 33-A** is enacted to read:

35 **CHAPTER 33-A**

36 **MICROGRIDS**

37 **§3351. Microgrids**

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

1 A. "Distributed energy resources" means small-scale electrical generation sources  
2 located close to where the generated electricity is used, energy storage resources,  
3 energy efficiency resources or demand response resources.

4 B. "New microgrid" means a group of interconnected loads and distributed energy  
5 resources within clearly defined electrical boundaries that acts as a single controllable  
6 entity with respect to the electric grid and can connect and disconnect from the electric  
7 grid to enable the new microgrid to operate in both electric grid-connected mode and  
8 nongrid-connected mode, referred to in this chapter as "island mode," and that is  
9 constructed after October 1, 2020.

10 **2. Microgrids, public utility exception.** Notwithstanding section 2102 or any other  
11 provision of this Title to the contrary, a person that constructs, maintains or operates a new  
12 microgrid approved under subsection 3 does not, solely as a result of furnishing service  
13 through that new microgrid to participating consumers, become a public utility and is not  
14 subject to regulation as a public utility under this Title.

15 **3. Commission approval; requirements.** A person may not construct or operate a  
16 new microgrid without commission approval in accordance with this subsection.

17 A. The commission shall approve a petition to construct and operate a new microgrid  
18 if the commission finds that operation of the new microgrid is in the public interest and  
19 the new microgrid meets at least the following requirements:

20 (1) The proposed new microgrid will serve a total load of no more than 25  
21 megawatts;

22 (2) The proposed new microgrid is located in the service territory of a transmission  
23 and distribution utility with more than 50,000 customers;

24 (3) The distributed energy resources for the new microgrid meet the applicable  
25 portfolio requirements in section 3210, subsections 3, 3-A, 3-B and 3-C;

26 (4) The person proposing the new microgrid demonstrates that the person has  
27 secured the financial capacity to operate the proposed new microgrid;

28 (5) The person proposing the new microgrid demonstrates that the person has  
29 secured the technical capability to operate the proposed new microgrid;

30 (6) There is a contractual relationship between the proposed new microgrid  
31 operator and consumers within the area to be served by the proposed new  
32 microgrid; and

33 (7) The proposed new microgrid will not negatively affect the reliability and  
34 security of the electric grid.

35 For the purposes of this paragraph, when determining whether a proposed new  
36 microgrid is in the public interest, the commission shall consider possible ratepayer  
37 effects, whether positive or negative; benefits due to the increased resilience or  
38 reliability of the electric grid; economic development benefits; and any other factors  
39 the commission considers necessary to promote the public interest.

40 B. As a condition of approval of a new microgrid, the commission shall:

41 (1) Require that any increase in costs to the electric transmission and distribution  
42 system in the State as a result of the new microgrid must be fully recovered from

1 the microgrid owner and customers of the microgrid and not passed on to other  
2 electric ratepayers; and

3 (2) Impose any other terms, conditions or requirements on the construction,  
4 maintenance or operation of the new microgrid as, in its judgment, it considers  
5 necessary, which may include but are not limited to parameters regarding the  
6 ability of the new microgrid to enter island mode, as defined by the commission  
7 by rule, and the operation of the new microgrid in grid-connected mode and island  
8 mode.

9 **4. Commission oversight; grid protections; consumer protections.** A new  
10 microgrid approved in accordance with subsection 3 is subject to commission oversight to  
11 ensure reliability and security of the electric grid and consumer protections for customers  
12 of the new microgrid.

13 **5. Services.** Services provided by a new microgrid may include, but are not limited  
14 to:

15 A. Standby electric service, as defined by the commission by rule, when the new  
16 microgrid is operating in island mode; and

17 B. Selling electricity as a competitive electricity provider when the new microgrid is  
18 operating in grid-connected mode.

19 **6. Rulemaking.** The commission may adopt rules to implement this section. Rules  
20 adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375,  
21 subchapter 2-A.

22 **Sec. 4. Report.** The Public Utilities Commission shall submit a report by January 7,  
23 2022 to the joint standing committee of the Legislature having jurisdiction over energy and  
24 utility matters detailing its activities related to new microgrids as defined in the Maine  
25 Revised Statutes, Title 35-A, section 3351, subsection 1, paragraph B, including whether  
26 any new microgrids have been approved under Title 35-A, section 3351. The report must  
27 also include any recommendations for legislation that may be necessary to clarify or  
28 enhance the law regarding new microgrids. The committee may report out a bill to the  
29 First Regular Session of the 131st Legislature based on the report.

30 **Sec. 5. Precedent established by Public Utilities Commission.** The provisions  
31 of this Act may not be interpreted to modify or nullify the analytical framework and  
32 precedent for analyzing whether an entity is a transmission and distribution utility or a  
33 competitive electricity provider established by the Public Utilities Commission in opinions  
34 and orders issued prior to the effective date of this Act, including, but not limited to,  
35 opinions and orders issued under Docket Number 2000-653, Request for Commission  
36 Investigation Regarding the Plans of Boralex Stratton Energy, Inc. to Provide Electric  
37 Service Directly from Stratton Lumber Company and Docket Number 2011-200, ReEnergy  
38 Rumford, LLC, Request for Advisory Ruling.

## 39 SUMMARY

40 This bill directs the Public Utilities Commission to approve a petition to construct and  
41 operate a new microgrid if the commission finds the proposal to be in the public interest  
42 and the new microgrid meets other specified requirements. It provides the commission  
43 with the ability to impose such terms, conditions or requirements as, in its judgment, it

1 considers necessary in approving a new microgrid and also gives the commission oversight  
2 to ensure reliability and security of the electrical grid and consumer protections for new  
3 microgrid consumers. It specifies that a new microgrid does not become a public utility  
4 solely as a result of its furnishing electrical service to participating consumers. The bill  
5 directs the Public Utilities Commission to submit a report to the joint standing committee  
6 of the Legislature having jurisdiction over energy and utility matters by January 7, 2022.