

MAINE STATE LEGISLATURE

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Date: 2/15/24 Minority

(Filing No. H-750)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 452, L.D. 683, "An Act to Reduce Electricity Rates"

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

'An Act to Reduce Electricity Rates Through Changes to the State's Net Energy Billing Programs'

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

'Sec. 1. 2 MRSA §9, sub-§6-A, as enacted by PL 2023, c. 411, §1, is amended to read:

6-A. Distributed Solar and Energy Storage Program. The Distributed Solar and Energy Storage Program, referred to in this subsection as "the program," is established to provide funding to foster the continued growth of cost-effective distributed solar facilities and energy storage systems in this State. The office, as funding allows, shall develop the program no later than July 1, 2024.

A. As used in this subsection, the following terms have the following meanings.

(1) "Distributed solar facility" means a solar generating facility interconnected to a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B.

(2) "Energy storage system" has the same meaning as in Title 35-A, section 3481, subsection 6.

B. The program must be designed to obtain and provide available federal funds to support cost-effective distributed solar facilities and energy storage systems. The office shall consult with the Public Utilities Commission in developing and administering the program.

C. In order to support the office's activities in administering the program, the office may request funds from the Public Utilities Commission for the office's administrative

COMMITTEE AMENDMENT

1 costs, which may include, but are not limited to, costs associated with hiring
 2 consultants and office personnel and contracting for technical analysis.
 3 Notwithstanding Title 35-A, section 117, if the office requests funding in accordance
 4 with this paragraph, the commission may provide funding, to the extent available, from
 5 the Public Utilities Commission Reimbursement Fund under section 117. ~~If the Public
 6 Utilities Commission Reimbursement Fund does not have sufficient funding,
 7 notwithstanding Title 35-A, section 116, subsection 4, the commission may provide
 8 funding from the Public Utilities Commission Regulatory Fund in accordance with this
 9 paragraph.~~

10 D. The office shall apply for available federal funds to fund the program, including,
 11 but not limited to, funds from the United States Environmental Protection Agency's
 12 Greenhouse Gas Reduction Fund under 42 United States Code, Section 7434. Nothing
 13 in this paragraph limits other uses of federal funds received by the office consistent
 14 with applicable federal requirements.

15 E. Except as provided in paragraph C, ratepayer funds may not be used to implement
 16 the program or to provide funding under the program to distributed solar facilities or
 17 energy storage systems.

18 F. No later than January 15th of each year, the office shall provide a report to the joint
 19 standing committee of the Legislature having jurisdiction over energy matters
 20 summarizing its activities under the program and evaluating the program's benefits and
 21 costs to ratepayers.

22 **Sec. 2. 35-A MRSA §3209-A, sub-§2**, as enacted by PL 2019, c. 478, Pt. A, §3, is
 23 amended to read:

24 **2. Financial interest required.** ~~The Except as otherwise provided in this section, the~~
 25 ~~commission shall allow a customer to participate in net energy billing if the customer has~~
 26 ~~a financial interest in a distributed generation resource or in a generation resource that has~~
 27 ~~a net energy billing arrangement on the effective date of this section, including facility~~
 28 ~~ownership, a lease agreement or a power purchase agreement.~~

29 **Sec. 3. 35-A MRSA §3209-A, sub-§2-A** is enacted to read:

30 **2-A. Net energy billing termination.** Except as provided in subsections 10 and 11
 31 and notwithstanding any other provision of law to the contrary, after December 31, 2044,
 32 a person may not participate in net energy billing under this section.

33 **Sec. 4. 35-A MRSA §3209-A, sub-§3**, as enacted by PL 2019, c. 478, Pt. A, §3, is
 34 amended to read:

35 **3. Shared financial interest for investor-owned utility customers; limitation.**
 36 Multiple customers of an investor-owned transmission and distribution utility that have
 37 distinct billing accounts with that utility may share a financial interest in a distributed
 38 generation resource under subsection 2. ~~Any number of~~ Subject to the provisions specified
 39 in subsection 3-A, customers of an investor-owned transmission and distribution utility
 40 with a shared financial interest in a distributed generation resource may participate in net
 41 energy billing, except that the number of eligible customers or meters is limited to 10 for a
 42 shared financial interest in a distributed generation resource located in the service territory
 43 of an investor-owned transmission and distribution utility located in an area administered
 44 by the independent system administrator for northern Maine or any successor of the



1 independent system administrator for northern Maine unless the commission determines
2 that the utility's billing system can accommodate more than 10 accounts or meters for the
3 purpose of net energy billing.

4 **Sec. 5. 35-A MRSA §3209-A, sub-§3-A** is enacted to read:

5 **3-A. Shared financial interest for investor-owned utility customers; 20-customer**
6 **limitation.** Beginning October 1, 2024, the following provisions apply.

7 A. Except as provided in paragraph B and subsection 10, no more than 20 customers
8 of an investor-owned transmission and distribution utility may share a financial interest
9 in a distributed generation resource and participate in net energy billing under this
10 section. In order to qualify to participate in net energy billing under this paragraph, the
11 distributed generation resource must be located on the same side of a meter as one of
12 the customers sharing a financial interest and serve the electric load of that customer,
13 and at least 50% of the net energy billing credits associated with the output of the
14 distributed generation resource must be allocated to the retail account of that customer.

15 B. The limitation under paragraph A does not apply to:

16 (1) A customer participating in net energy billing under this section pursuant to a
17 net energy billing agreement that was entered into prior to October 1, 2024; or

18 (2) A municipality participating in net energy billing under this section in
19 connection with a distributed generation resource if the distributed generation
20 resource is located on the same side of a meter as the municipality and serves the
21 electric load of that municipality and at least 25% of the net energy billing credits
22 associated with the output of the distributed generation resource are allocated to
23 the retail account of that municipality.

24 An amendment, revision or reissuance of an agreement under this subsection that occurs
25 after October 1, 2024 may not be interpreted to affect the date on which the agreement was
26 initially executed.

27 **Sec. 6. 35-A MRSA §3209-A, sub-§4,** as enacted by PL 2019, c. 478, Pt. A, §3, is
28 amended to read:

29 **4. System size.** ~~The~~ Subject to the provisions specified in subsection 4-A, the
30 nameplate capacity of a distributed generation resource that may be used for net energy
31 billing must be less than 5 megawatts, except that, if a municipality is the customer
32 participating in net energy billing, the nameplate capacity of a distributed generation
33 resource located in that municipality that may be used for the net energy billing may be 5
34 megawatts or more, as long as less than 5 megawatts of metered electricity from the
35 resource is used for net energy billing.

36 **Sec. 7. 35-A MRSA §3209-A, sub-§4-A** is enacted to read:

37 **4-A. System size beginning October 1, 2024.** Beginning October 1, 2024, the
38 following provisions apply.

39 A. Except as provided in paragraph B, the nameplate capacity of a distributed
40 generation resource that may be used for net energy billing under this section may not
41 be more than one megawatt, except that, if a municipality is the customer participating
42 in net energy billing, the nameplate capacity of a distributed generation resource
43 located in that municipality that may be used for the net energy billing may be greater

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1 than one megawatt, as long as not more than one megawatt of metered electricity from
2 the resource is used for net energy billing.

3 B. The limitation under paragraph A does not apply to a customer participating in net
4 energy billing under this section pursuant to a net energy billing agreement that was
5 entered into prior to October 1, 2024.

6 **Sec. 8. 35-A MRSA §3209-A, sub-§9**, as enacted by PL 2023, c. 411, §2, is
7 amended to read:

8 **9. Applicability to projects ~~between one megawatt and 2 megawatts~~ greater than**
9 **one megawatt and not more than 2 megawatts.** A distributed generation resource with
10 a nameplate capacity ~~of at least~~ greater than one megawatt and not more than 2 megawatts
11 may be used for net energy billing under this section only if the requirements of paragraph
12 A are met.

13 A. On or before December 31, 2024, the proposed distributed generation resource must
14 reach commercial operation by the date specified in the net energy billing agreement
15 or by the date specified with an allowable modification to that agreement.

16 An entity proposing the development of a distributed generation resource that does not
17 meet the requirement of this subsection may petition the commission for a good-cause
18 exemption due to external delays outside of the entity's control, which the commission may
19 grant if it finds that without the external delays the entity could reasonably have been
20 expected to meet the requirement. A distributed generation resource that receives a good-
21 cause exemption may not be used for net energy billing under this section unless it has
22 reached commercial operation by December 31, 2025.

23 **Sec. 9. 35-A MRSA §3209-A, sub-§10** is enacted to read:

24 **10. Consumer-owned small project exception; rules.** In accordance with this
25 subsection, the commission may approve the use of a consumer-owned small project for
26 net energy billing under this section.

27 A. For the purposes of this subsection, "consumer-owned small project" means a
28 distributed generation resource with a nameplate capacity of one megawatt or less that
29 is wholly owned by the customers receiving the net energy billing credits associated
30 with the output of the distributed generation resource.

31 B. A consumer-owned small project is not subject to the provisions established in
32 subsections 2-A and 3-A.

33 C. The commission may not approve more than 10 consumer-owned small projects
34 under this subsection.

35 D. The commission may adopt rules to implement this subsection. Rules adopted
36 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
37 subchapter 2-A.

38 Nothing in this subsection prohibits the use of a distributed generation resource for net
39 energy billing if that distributed generation resource qualifies for net energy billing under
40 subsection 3-A or 4-A.

41 **Sec. 10. 35-A MRSA §3209-A, sub-§11** is enacted to read:

1 **11. Single customer exception.** Notwithstanding any other provision of this section
2 to the contrary, a distributed generation resource may be used for net energy billing if the
3 distributed generation resource:

4 A. Is owned by a customer;

5 B. Is used to serve the electric load of that customer only; and

6 C. Meets the criterion that 100% of the net energy billing credits associated with the
7 output of the distributed generation resource are allocated to the retail account of that
8 customer.

9 **Sec. 11. 35-A MRSA §3209-B, sub-§3,** as enacted by PL 2019, c. 478, Pt. A, §4,
10 is amended to read:

11 **3. System size.** The Subject to the provisions specified in subsection 3-A, the
12 nameplate capacity of a distributed generation resource that may be used for net energy
13 billing under this section must be less than 5 megawatts.

14 **Sec. 12. 35-A MRSA §3209-B, sub-§3-A** is enacted to read:

15 **3-A. System size beginning October 1, 2024.** Beginning October 1, 2024, the
16 following provisions apply.

17 A. Except as provided in paragraph B, the nameplate capacity of a distributed
18 generation resource that may be used for net energy billing under this section may not
19 be more than one megawatt.

20 B. The limitation under paragraph A does not apply to a customer participating in net
21 energy billing under this section pursuant to a net energy billing agreement that was
22 entered into prior to October 1, 2024.

23 **Sec. 13. 35-A MRSA §3209-B, sub-§4,** as enacted by PL 2019, c. 478, Pt. A, §4,
24 is amended to read:

25 **4. Shared financial interest for investor-owned utility customers; limitation.**
26 Multiple commercial or institutional customers that have distinct billing accounts with an
27 investor-owned transmission and distribution utility may share a financial interest in a
28 distributed generation resource under subsection 2. ~~Any number of~~ Subject to the
29 provisions specified in subsection 4-A, commercial or institutional customers may
30 participate in net energy billing with a shared interest in a distributed generation resource,
31 except that the number of customers or meters is limited to 10 for a shared interest in a
32 distributed generation resource located in the service territory of an investor-owned
33 transmission and distribution utility located in an area administered by the independent
34 system administrator for northern Maine or any successor of the independent system
35 administrator for northern Maine unless the commission determines that the utility's billing
36 system can accommodate more than 10 accounts or meters for the purpose of net energy
37 billing.

38 **Sec. 14. 35-A MRSA §3209-B, sub-§4-A** is enacted to read:

39 **4-A. Shared financial interest for investor-owned transmission and distribution**
40 **utility; 20-customer limitation.** Beginning October 1, 2024, the following provisions
41 apply.

1 A. Except as provided in paragraph B, no more than 20 customers of an investor-
2 owned transmission and distribution utility may share a financial interest in a
3 distributed generation resource and participate in net energy billing under this section.
4 In order to qualify to participate in net energy billing under this paragraph, the
5 distributed generation resource must be located on the same side of a meter as one of
6 the customers sharing a financial interest and serve the electric load of that customer,
7 and at least 50% of the net energy billing credits associated with the output of the
8 distributed generation resource must be allocated to the retail account of that customer.

9 B. The limitation under paragraph A does not apply to:
10 (1) A customer participating in net energy billing under this section pursuant to a
11 net energy billing agreement that was entered into prior to October 1, 2024; or
12 (2) A municipality participating in net energy billing under this section in
13 connection with a distributed generation resource if the distributed generation
14 resource is located on the same side of a meter as the municipality and serves the
15 electric load of that municipality and at least 25% of the net energy billing credits
16 associated with the output of the distributed generation resource are allocated to
17 the retail account of that municipality.

18 An amendment, revision or reissuance of an agreement under this subsection that occurs
19 after October 1, 2024 may not be interpreted to affect the date on which the agreement was
20 initially executed.

21 **Sec. 15. 35-A MRSA §3209-B, sub-§5, ¶D,** as enacted by PL 2019, c. 478, Pt. A,
22 §4, is amended to read:

23 D. A customer participating in the program who remains eligible to participate in the
24 program must be allowed to receive a bill credit based on the tariff rate for a period of
25 no less than 20 years from the date of first receiving the credit or until December 31,
26 2044, whichever occurs first.

27 **Sec. 16. 35-A MRSA §3209-B, sub-§5-A** is enacted to read:

28 **5-A. Net energy billing termination.** Notwithstanding any other provision of law to
29 the contrary, after December 31, 2044 a person may not participate in net energy billing
30 under this section.

31 **Sec. 17. 35-A MRSA §3209-B, sub-§8,** as enacted by PL 2023, c. 411, §4, is
32 repealed.

33 **Sec. 18. 35-A MRSA §3209-C, sub-§2, ¶B,** as enacted by PL 2023, c. 411, §5, is
34 amended to read:

35 B. The commission shall allocate to each investor-owned transmission and distribution
36 utility its pro rata share of net energy billing costs. ~~If the commission finds that a benefit~~
37 ~~of distributed generation under net energy billing provides a monetized net financial~~
38 ~~benefit to an investor owned transmission and distribution utility that the commission~~
39 ~~does not otherwise account for when setting rates for the utility, the net financial benefit~~
40 ~~must be applied to offset the net energy billing costs allocated under this paragraph.~~
41 The allocation must be based on each utility's total retail kilowatt-hour energy sales to
42 ratepayers that pay net energy billing costs. The commission may determine the means

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1 to be used for the allocation required under this subsection, and those means may
2 include the direct transfer of funds between transmission and distribution utilities.

3 **Sec. 19. 35-A MRSA §3209-D, sub-§2**, as enacted by PL 2023, c. 411, §6, is
4 repealed and the following enacted in its place:

5 **2. Competitive solicitations and initial procurement.** The commission shall
6 conduct one or more competitive solicitations in order to select distributed generation
7 resources for contracts under this subsection.

8 A. No later than November 1, 2024, the commission shall initiate the first competitive
9 solicitation in order to select distributed generation resources for contracts pursuant to
10 this subsection.

11 B. The commission shall select for a contract under this section any bid relating to a
12 distributed generation resource that the commission finds will result in substantial
13 savings to ratepayers as compared to the cost of the distributed generation resource
14 remaining in a net energy billing arrangement under section 3209-A or 3209-B. In
15 reviewing bids and establishing a contract price under this subsection, the commission
16 shall determine and consider the levelized cost of the energy that will be purchased
17 under the contract.

18 **Sec. 20. 35-A MRSA §3209-E, sub-§1, ¶A**, as enacted by PL 2023, c. 411, §7, is
19 amended to read:

20 A. "Distributed generation resource" has the same meaning as in section 3209-D,
21 subsection 1, paragraph A 3209-A, subsection 1, paragraph B.

22 **Sec. 21. 35-A MRSA §3209-F** is enacted to read:

23 **§3209-F. Review of compensation; alteration**

24 Notwithstanding the provisions of sections 3209-A and 3209-B, the commission may
25 periodically review and alter by rule the amount of compensation, which may include a bill
26 credit based on tariff rate, that a customer with a financial interest in a distributed
27 generation resource receives as a result of participating in net energy billing in accordance
28 with this section and section 101.

29 **1. Review of compensation.** The commission may periodically review and alter by
30 rule the amount of compensation, which may include a bill credit based on the tariff rate,
31 that a customer with a financial interest in a distributed generation resource receives as a
32 result of participating in net energy billing under section 3209-A or 3209-B. In making
33 any alteration under this section, the commission shall use a standard or representative
34 distributed generation resource to assess the amount of compensation provided under
35 section 3209-A or 3209-B and shall ensure that any alteration provides a reasonable
36 opportunity for the recovery of reasonable costs, as determined by the commission, and a
37 reasonable rate of return. The commission may not increase any compensation above the
38 lowest amount that would be received under section 3209-B.

39 **2. Alteration.** The commission may modify by rule the requirements under section
40 3209-A or 3209-B to the extent necessary to allow the State or a distributed generation
41 resource participating in a net energy billing arrangement under section 3209-A or 3209-B
42 to qualify for federal grants or subsidies that benefit ratepayers in this State.



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3. Rules. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill, which is a concept draft, and changes the title. The amendment does the following.

1. It removes the language that authorizes the Public Utilities Commission to provide funds to the Governor’s Energy Office from the Public Utilities Commission Regulatory Fund for the office’s administrative costs associated with the Distributed Solar and Energy Storage Program established by the Maine Revised Statutes, Title 2, section 9, subsection 6-A and requires the office to provide an annual report on the program.

2. Beginning October 1, 2024, it limits the number of customers who may share a financial interest in a distributed generation resource and participate in the kilowatt-hour credit and tariff rate net energy billing programs to 20 customers subject to certain conditions. It creates exceptions to the limitation for a customer participating in net energy billing pursuant to an agreement entered into prior to October 1, 2024 and for a municipality if the distributed generation resource is on the same side of the meter as the municipality and at least 25% of the net energy billing credits associated with the output of the distributed generation resource are allocated to the municipality.

3. Beginning October 1, 2024, it limits the nameplate capacity of a distributed generation resource that may be used for the kilowatt-hour credit and tariff rate net energy billing programs to one megawatt or less, except the limitation does not apply to a customer participating in accordance with an agreement entered into prior to October 1, 2024. It also creates an exception to this limitation for a distributed generation resource in the kilowatt-hour credit net energy billing program that applies if the distributed generation resource is owned by the customer and is used to serve the electric load of that customer only and 100% of the net energy billing credits associated with the distributed generation resource are allocated to the retail account of that customer.

4. It provides that, after December 31, 2044, a person is prohibited from participating in the tariff rate net energy billing program and the kilowatt-hour credit net energy billing program, except that a person may participate in the kilowatt-hour credit net energy billing program beyond December 31, 2044 in connection with a project approved by the commission as described in Title 35-A, section 3209-A, subsection 10.

5. It establishes limitations on participation in the kilowatt-hour credit and tariff rate net energy billing programs for distributed generation resources with a nameplate capacity of greater than one megawatt and not more than 2 megawatts.

6. It provides that a customer participating in the tariff rate net energy billing program who remains eligible to participate in the program may receive a bill credit based on the tariff rate for a period of no less than 20 years from the date of first receiving the credit or until December 31, 2044, whichever occurs first.

7. It removes the requirement that the commission apply any monetized net financial benefits that are not otherwise accounted for when setting rates to offset the net energy



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billing costs that may be allocated to the investor-owned transmission and distribution utility.

8. It makes changes to the timing and selection requirements for the competitive solicitation and procurement required by Title 35-A, section 3209-D.

9. It allows the commission to periodically review and by rule alter the amount of compensation that a customer with a financial interest in a distributed generation resource receives as a result of participating in net energy billing.

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 683

LR 1892(02)

An Act to Reduce Electricity Rates

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-750)
Committee: Energy, Utilities and Technology
Fiscal Note Required: Yes

Fiscal Note

Removes Funding Option
Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

This bill removes a provision enacted in LD 1986 (P.L. 2023, c.411) that authorized the Public Utilities Commission (PUC) to provide funds for administrative costs to the Governor's Energy Office (GEO) from the PUC Regulatory Fund. Because the bill retains the provisions that allow the PUC to provide funding from the PUC Reimbursement Fund, no changes are required to the allocations provided in LD 1986.

Any additional costs to the PUC or the GEO to implement the other provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.