

MAINE STATE LEGISLATURE

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L.D. 1963

Date: 4/3/24

(Filing No. S-653)

MINORITY

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 799, L.D. 1963, "An Act Regarding the Future of Renewable Energy Transmission in Northern Maine"

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

Sec. 1. 12 MRSA §685-B, sub-§2-D is enacted to read:

2-D. Transmission line or lines under Northern Maine Renewable Energy Development Program. A transmission line or lines developed under the Northern Maine Renewable Energy Development Program pursuant to Title 35-A, section 3210-I, subsection 2 and proposed within unorganized or deorganized areas of the State is reviewed and permits are issued by the Department of Environmental Protection under Title 38, section 489-A-1.

Sec. 2. 35-A MRSA §3210-I, sub-§1, ¶B, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

B. ~~Develop~~ Plan for and develop the transmission infrastructure necessary for the State to expeditiously meet its renewable energy and climate goals using, to the extent practicable, renewable energy resources located in the State;

Sec. 3. 35-A MRSA §3210-I, sub-§1, ¶D, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

D. Promote energy equity, high-quality jobs and the development of a skilled workforce, with particular consideration given to the economic circumstances and opportunities in the State's socially vulnerable counties and communities. For the purposes of this paragraph, "socially vulnerable counties and communities" means those counties and communities in the State containing populations that are disproportionately burdened by existing social inequities or lack the capacity to withstand new or worsening burdens; ~~and~~

Sec. 4. 35-A MRSA §3210-I, sub-§1, ¶E, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

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E. Recognize that, in advancing the renewable energy and climate policies and goals of the State, the near-term development of the transmission and other infrastructure necessary to reduce greenhouse gas emissions is in the public interest; and

Sec. 5. 35-A MRSA §3210-I, sub-§1, ¶F is enacted to read:

F. In collaboration with the Governor's Energy Office, established in Title 2, section 9, seek to partner with other states, governmental entities or utilities within New England in the development of requests for proposals and the evaluation of proposals received in response to a request for proposals for a transmission line or lines under subsection 2 and renewable energy generation projects under subsection 3.

Sec. 6. 35-A MRSA §3210-I, sub-§2, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

2. Request for proposals; ~~generation connection~~ transmission line or lines. The commission shall issue a request for proposals for the development and construction of a ~~345 kilovolt double circuit generation connection line, or, in the commission's discretion, a transmission line or lines of greater capacity, to connect~~ transmission line or lines necessary to connect no more than 2,000 megawatts of renewable energy resources located in northern Maine and developed pursuant to subsection 3 with the electric grid operated by the New England independent system operator, referred to in this section as "the ISO-New England system." The commission may issue preliminary requests for information from utilities and private developers or release draft requests for proposals or draft transmission services agreements to gather information to inform the program.

A. The proposals must be required to cover a contract term of 30 years, except that the commission may, in its discretion, approve a contract term of a different duration, and must include provisions for the construction, development and subsequent commercial operation of the transmission line or lines described in this subsection.

A-1. The commission may coordinate with other states, governmental entities or utilities within New England in the development of a request for proposals pursuant to this subsection and in the evaluation of proposals received in response to a request for proposals. The commission shall allow the Governor's Energy Office and the Office of the Public Advocate to review the proposals submitted pursuant to this subsection. The Governor's Energy Office and the Office of the Public Advocate may provide input to the commission upon review of the proposals, which may include an assessment as to whether any proposals submitted are consistent with the goals of the program as described in this section. If a proposal includes confidential or proprietary information, trade secrets or similar matters as provided by the Maine Rules of Civil Procedure, Rule 26(c), the commission may issue appropriate protective orders in accordance with section 1311-A with respect to those portions of the proposal.

B. The commission shall evaluate the proposals received based, at a minimum, on the following factors: cost, economic benefit to northern Maine, the qualifications of the bidder or bidders, the long-term viability of each proposal and the anticipated contribution of each proposal toward the achievement by the State of its renewable energy goals under section 3210. The commission shall disqualify any proposal that, in the commission's determination, fails to demonstrate the bidder's technical and financial capacity to successfully construct, develop and operate the transmission line

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or lines described in this subsection and to pursue, negotiate and contract for its interconnection with the ISO-New England system.

B-1. The commission may consider proposals that include mechanisms to mitigate and allocate risks associated with development and operation of any transmission line or lines and renewable energy generation project under subsection 3 to be developed under the program.

C. The commission shall give preference to proposals that:

(1) In the commission's determination, in the aggregate with proposals received under subsection 3, demonstrate the most cost-effective and efficient transmission access to renewable energy resources in northern Maine in a manner that best supports the achievement of the State's renewable energy goals under section 3210 and that maximize benefits to the State;

(2) ~~Favor~~ Provide community engagement plans and favor use, where to the extent practicable, of existing utility and other rights-of-way and other existing transmission corridors in the construction of the transmission line or lines described in this subsection; and

(3) In the commission's determination, are likely to provide a reduction in transmission costs and costs to ratepayers for electricity over time as more energy is transmitted using the transmission line or lines described in this subsection;

(4) Adequately demonstrate project viability within a commercially reasonable time frame; and

(5) Maximize federal tax credits by including agreements described in 29 United States Code, Section 158(f).

D. The commission may consider and, in accordance with the applicable provisions of this subsection and subsection 3, select a proposal or proposals that include both the development and construction of the transmission line or lines described in this subsection and the development and construction of one or more qualified renewable energy generation projects described in subsection 3.

D-1. The bidder that submits a proposal selected by the commission in accordance with this subsection must, upon the issuance by the commission of a certificate of public convenience and necessity in accordance with section 3132, be considered a transmission and distribution utility, except that the commission may limit the rights of the utility to the extent necessary to protect ratepayers from financial risks and such limitations must be specified in a contract executed pursuant to paragraph E.

~~No later than November 1, 2022, the~~ The commission shall approve a contract or contracts between one or more transmission and distribution utilities and the bidder of any proposal selected by the commission in accordance with this subsection, except that, if at the close of the competitive bidding process the commission determines that no proposal meets the requirements of this subsection or that approval of a contract or contracts that otherwise meet the requirements of this subsection is not in the public interest, the commission may reject all proposals and may open a new competitive bidding process under this subsection.

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F. Notwithstanding any provision of law to the contrary, in any proceeding for a certificate of public convenience and necessity in accordance with section 3132 related to a transmission line or lines selected under this subsection, the commission shall primarily consider economics, reliability, public health and safety and any other factors that demonstrate the viability of such line as determined by the commission. In determining a public need under section 3132 and taking into account the scenic, historic, recreational and environmental impacts and alternative routes for a proposed transmission line or lines, the commission may rely upon any Department of Environmental Protection findings for any related application for a department license or permit for such transmission line or lines.

Sec. 7. 35-A MRS §3210-I, sub-§3, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

3. Request for proposals; renewable energy generation projects. The commission shall issue a request for proposals for the development and construction of qualified renewable energy generation projects in northern Maine designed to connect to and transmit generated power using the transmission line or lines to be constructed pursuant to subsection 2. The commission shall make every effort to ensure that the competitive bidding process directed by this subsection results in the approval of contracts pursuant to paragraph E ~~no later than November 1, 2022~~. As part of the request for proposals under this subsection, the commission shall make available to potential bidders any relevant information submitted to the commission by the bidder or bidders whose proposal or proposals were approved for contracting under subsection 2. Except as provided in paragraph B, subparagraph (2), renewable energy generation projects on which construction commenced prior to ~~September 30, 2022~~ July 31, 2024 are not qualified for the purposes of this subsection.

A. The proposals must be required to cover a contract term of 20 years, except that the commission may, in its discretion, approve a contract term of a different duration, and must include provisions for the construction, development and subsequent commercial operation of one or more qualified renewable energy generation projects in northern Maine that will be designed to connect to and transmit generated power using the transmission line or lines to be constructed pursuant to subsection 2. The commission may consider only proposals for the construction of Class I and Class IA resources, as defined in section 3210, subsection 2, and energy storage systems, except that the commission may not consider proposals for the construction of biomass generators fueled by landfill gas or by anaerobic digestion of agricultural products, by-products or waste, or waste-to-energy generation facilities fueled by municipal solid waste. For the purposes of this section, "energy storage system" means a commercially available technology that uses mechanical, chemical or thermal processes for absorbing energy and storing it for a period of time for use at a later time.

A-1. The commission may coordinate with other states, governmental entities or utilities within New England in the development of a request for proposals pursuant to this subsection and in the evaluation of proposals received in response to a request for proposals. The commission shall allow the Governor's Energy Office and the Office of the Public Advocate to review the proposals submitted pursuant to this subsection. The Governor's Energy Office and the Office of the Public Advocate may provide input to the commission upon review of the proposals, which may include an assessment as to

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1 whether any proposals submitted are consistent with the goals of the program as
2 described in this section. If a proposal includes confidential or proprietary information,
3 trade secrets or similar matters as provided by the Maine Rules of Civil Procedure,
4 Rule 26(c), the commission may issue appropriate protective orders in accordance with
5 section 1311-A with respect to those portions of the proposal.

6 B. The commission may, in its discretion, consider and select in accordance with the
7 applicable requirements of this subsection:

8 (1) One or more contracts for capacity, renewable energy or renewable energy
9 credits, or any combination thereof, from a qualified renewable energy generation
10 project described in this subsection; or

11 (2) One or more contracts for renewable energy generation projects on which
12 construction commenced prior to ~~September 30, 2022~~ July 31, 2024, if the
13 commission determines that:

14 (a) Such a project or projects otherwise meets the requirements of this
15 subsection;

16 (b) Additional line capacity remains available on the transmission line or lines
17 to be constructed pursuant to subsection 2; and

18 (c) There are no commercially viable proposals remaining for consideration
19 for qualified renewable energy generation projects on which construction
20 commenced or will commence on or after ~~September 30, 2022~~ July 31, 2024.

21 C. The commission shall evaluate the proposals received based, at a minimum, on the
22 following factors: cost, economic benefit to northern Maine, the qualifications of the
23 bidder or bidders and, as determined by the commission, the short-term, medium-term
24 and long-term viability of the proposals.

25 C-1. The commission may consider proposals that include mechanisms to mitigate and
26 allocate risks associated with development and operations of any transmission line or
27 lines under subsection 2 and renewable energy generation project to be developed
28 under the program.

29 D. The commission shall give greatest preference to proposals that, ~~in the~~
30 ~~commission's determination, in the aggregate with proposals received under subsection~~
31 ~~2, demonstrate the most cost-effective and efficient development of renewable energy~~
32 ~~resources in northern Maine in a manner that best supports the achievement of the~~
33 ~~State's renewable energy goals under section 3210 and maximize benefits to the State.;~~

34 (1) In the commission's determination, in the aggregate with proposals received
35 under subsection 2, demonstrate the most cost-effective and efficient development
36 of renewable energy resources in northern Maine in a manner that best supports
37 the achievement of the State's renewable energy goals under section 3210 and
38 maximize benefits to the State; and

39 (2) Maximize federal tax credits by including agreements described in 29 United
40 States Code, Section 158(f).

41 E. The commission shall approve a contract or contracts between one or more investor-
42 owned transmission and distribution utilities and the bidder of any proposal selected
43 by the commission in accordance with this subsection. If at the close of the competitive

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bidding process the commission determines that no proposal meets the requirements of this subsection, that additional line capacity remains available or that approval of a contract or contracts that otherwise meet the requirements of this subsection is not in the public interest, the commission may reject all proposals and may open a new competitive bidding process under this subsection.

F. In selecting contracts pursuant to this subsection, the commission shall make every effort to ensure that at least one such contract supports the construction and development in northern Maine of a biomass generator fueled by wood or wood waste. In considering any proposal under this subsection for a qualified renewable energy generation project that is a biomass generator fueled by wood or wood waste, the commission shall consider the waste reduction benefits to the State's forest products industry associated with the operation of the biomass generator, including, but not limited to, the avoidance of methane emissions.

G. In selecting contracts pursuant to this subsection, the commission shall consider the effect of a contract or contracts selected on the viability of the transmission line or lines to be developed and constructed pursuant to subsection 2 and the effect on the success of the program.

Notwithstanding any provision of law to the contrary, the commission may in its discretion approve and order a contract or contracts under this subsection for the purchase, beginning on or after January 1, 2024, of capacity, renewable energy or renewable energy credits, or any combination thereof, in an amount that is at least 18% of the retail electric load in the State for the period from January 1, 2019 to December 31, 2019. To the extent practicable, the commission shall approve and order such contract or contracts on a staggered basis consistent with its expectations for the development during the years of 2024 to 2045 of beneficial electrification as defined in section 10102, subsection 3-A and climate mitigation activities in the State and shall ensure the purchase of capacity, renewable energy or renewable energy credits necessary to achieve beneficial electrification from facilities and technology that are located in the State.

Sec. 8. 35-A MRSA §3210-I, sub-§3-B is enacted to read:

3-B. Term sheet award; effect. Notwithstanding any provision of law that requires a developer of a proposed transmission line or lines under subsection 2 or a renewable energy generation project under subsection 3 to demonstrate title, right or interest before a permitting agency will accept and begin processing an application for any permit or approval required for such a project, a term sheet awarded by the commission to a bidder for such a project must be considered sufficient title, right or interest for the permitting agency to accept and begin processing the application. Nothing in this subsection may be construed to except a transmission line or lines or a renewable energy generation project awarded a term sheet by the commission from any requirement for title, right or interest necessary for the issuance of such a permit or approval or to deem such requirements for title, right or interest satisfied by the award of a term sheet.

In an order awarding a term sheet to a bidder selected under subsection 2, the commission shall provide an explanation of the commission's considerations and findings regarding the costs and benefits associated with the development and construction of the transmission line or lines.

Sec. 9. 35-A MRSA §3210-I, sub-§5 is enacted to read:

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2 5. Public involvement and coordination. The commission and the Department of
3 Environmental Protection shall ensure coordinated public notification and opportunities for
4 public participation, including explanation of all public participation procedures, in
5 connection with regulatory approvals and permitting under this Title and Title 38 for a
6 transmission line or lines and renewable energy generation projects under the program.

7 **Sec. 10. 38 MRSA §346, sub-§4,** as repealed and replaced by PL 2011, c. 420, Pt.
8 A, §34, is amended to read:

9 **4. Appeal of decision.** A judicial appeal of final action by the board or commissioner
10 regarding an application for an expedited wind energy development, as defined in Title
11 35-A, section 3451, subsection 4, an application for a transmission line or lines developed
12 pursuant to Title 35-A, section 3210-I, subsection 2 or a general permit pursuant to section
13 480-HH or section 636-A must be taken to the Supreme Judicial Court sitting as the Law
14 Court. The Law Court has exclusive jurisdiction over request for judicial review of final
15 action by the commissioner or the board regarding expedited wind energy developments,
16 an application for a transmission line or lines developed pursuant to Title 35-A, section
17 3210-I, subsection 2 or a general permit pursuant to section 480-HH or section 636-A.
18 These appeals to the Law Court must be taken in the manner provided in Title 5, chapter
19 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

20 **Sec. 11. 38 MRSA §485-A, sub-§1-D** is enacted to read:

21 **1-D. Hearing required; transmission line.** If an application for the development and
22 construction of a transmission line or lines requiring approval under this article is received
23 by the department, the department or the board, as applicable, shall hold a hearing in
24 accordance with section 486-A and may not issue an order without a hearing.

25 **Sec. 12. 38 MRSA §486-A, sub-§2-A** is enacted to read:

26 **2-A. Developer; route analysis; public participation.** The department shall require
27 an applicant who has submitted an application pursuant to section 485-A related to the
28 development and construction of a transmission line or lines requiring approval under this
29 article to demonstrate to the department that the applicant conducted one or more public
30 meetings regarding the transmission line or lines prior to the submission of its application.
31 The public meetings must include the presentation of information regarding the proposed
32 transmission line or lines, including but not limited to proposed route information, and
33 provide an opportunity for public participation and comment. Information presented and
34 public comments received at the public meetings must be made publicly available and be
35 part of the record of any department or board proceeding.'

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

38 **SUMMARY**

39 This amendment, which is a minority report of the committee, replaces the bill, which
40 is a concept draft, and does the following.

41 1. It provides that a transmission line or lines developed under the Northern Maine
42 Renewable Energy Development Program pursuant to the Maine Revised Statutes, Title
35-A, section 3210-I, subsection 2 and proposed within the unorganized or deorganized

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areas of the State is reviewed and permits are issued by the Department of Environmental Protection.

3 2. It provides that the Public Utilities Commission must give preference to proposals
4 for the development and operation of a transmission line or lines or renewable generation
5 projects under Title 35-A, section 3210-I, that maximize federal tax credits by including
6 agreements described in 29 United States Code, Section 158(f).

7 3. In administering the program established by Title 35-A, section 3210-I, it directs the
8 commission, in collaboration with the Governor's Energy Office, to seek to partner with
9 other states, governmental entities or utilities within New England.

10 4. It provides that the Public Utilities Commission's request for proposals under Title
11 35-A, section 3210-I, subsection 2 must be for the development and construction of a
12 transmission line or lines necessary to connect no more than 2,000 megawatts of renewable
13 energy resources located in northern Maine, instead of for the development and
14 construction of a 345-kilovolt double circuit generation connection line, or, in the
15 commission's discretion, a transmission line or lines of greater capacity.

16 5. It allows the Public Utilities Commission to consider, under Title 35-A, section
17 3210-I, proposals for the development and construction of a transmission line or lines and
18 renewable energy generation projects that include mechanisms to mitigate and allocate
19 risks associated with development and operation of those projects.

20 6. It provides that, in any proceeding for a certificate of public convenience and
21 necessity related to a transmission line or lines selected under Title 35-A, section 3210-I,
22 subsection 2, the commission shall primarily consider economics, reliability, public health
23 and safety and any other factors that demonstrate the viability of such transmission line as
24 determined by the commission. In determining a public need and taking into account the
25 scenic, historic, recreational and environmental impacts and alternative routes for a
26 proposed transmission line or lines, the commission may rely upon any Department of
27 Environmental Protection findings for any related application for a department license or
28 permit for such transmission line or lines.

29 7. It provides that the bidder that submits a proposal selected by the Public Utilities
30 Commission for the development and construction of a transmission line or lines, upon the
31 issuance by the commission of a certificate of public convenience and necessity, is
32 considered a transmission and distribution utility, except that the commission may limit the
33 rights of the utility to the extent necessary to protect ratepayers from financial risks.

34 8. It updates dates and terminology within Title 35-A, section 3210-I.

35 9. It provides that a term sheet awarded by the Public Utilities Commission to a bidder
36 for the development and construction of a transmission line or lines and renewable energy
37 generation projects under the program established by Title 35-A, section 3210-I, must be
38 considered sufficient title, right or interest for a permitting agency to accept and begin
39 processing the application for the project. It also requires the commission, in an order
40 awarding a term sheet to a bidder selected for the development of a transmission line or
41 lines, to provide an explanation of the commission's considerations and findings regarding
42 the costs and benefits associated with the development and construction of the transmission
43 line or lines.

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10. It requires the Public Utilities Commission and the Department of Environmental Protection to ensure coordinated public notification and opportunities for public participation, including explanation of all public participation procedures, in connection with regulatory approvals and permitting under Title 35-A and Title 38 for a transmission line or lines and renewable energy generation projects under the Northern Maine Renewable Energy Development Program.

11. It provides that a judicial appeal of final action by the Board of Environmental Protection or the Commissioner of Environmental Protection regarding an application for a transmission line or lines developed pursuant to Title 35-A, section 3210-I, subsection 2, must be taken to the Supreme Judicial Court sitting as the Law Court.

12. It requires the Board of Environmental Protection or the Department of Environmental Protection, as applicable, to hold a hearing in accordance with Title 38, section 486-A, and prohibits the issuance of an order without a hearing in connection with an application for the development and construction of a transmission line or lines.

13. It requires the Department of Environmental Protection to require an applicant for a permit under the site location of development laws for the development and construction of a transmission line or lines to demonstrate to the department that the applicant conducted one or more public meetings regarding the transmission line or lines prior to the submission of its application.

FISCAL NOTE REQUIRED
(See attached)



131st MAINE LEGISLATURE

LD 1963

LR 481(03)

An Act Regarding the Future of Renewable Energy Transmission in Northern Maine

Fiscal Note for Bill as Amended by Committee Amendment "B(S-653)"
Committee: Energy, Utilities and Technology
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Public Utilities Commission, the Governor's Energy Office or the Department of Environmental Protection from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.