

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 29, 2016**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2016**

law, a surrogate giving consent pursuant to subsection 1 shall make a reasonable good faith attempt to inform the minor's parents or legal guardian of the health care that the minor received. A health care practitioner or health care provider who provides health care pursuant to this section shall inform the minor's surrogate of this obligation. The sending of correspondence by regular mail, e-mail, texting, posting to a personal website or other written means of communication to the last known address or contacting by telephone using the last known telephone number of the minor's parents or legal guardian, whichever means the surrogate believes to be the most effective way to ensure actual notification, is deemed a reasonable good faith attempt to provide notice for purposes of this subsection.

**3. Penalties.** The following penalties apply to violations of this section.

A. A surrogate who makes decisions for a minor knowing that the decisions are prohibited by subsection 1 commits a Class E crime.

B. A person who knowingly acts as a surrogate for a minor without meeting the definition of "surrogate" in section 1501, subsection 4 commits a Class E crime.

C. A surrogate who fails to attempt to give notice as required in subsection 1 or 2 commits a Class E crime.

**Sec. 3. 22 MRSA §1504**, as enacted by PL 1995, c. 694, Pt. C, §8 and affected by Pt. E, §2, is repealed and the following enacted in its place:

**§1504. Good faith reliance on consent**

**1. Reliance on minor's consent.** A health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health care as authorized in section 1503 and who subsequently renders health care in reliance on that consent is not liable for failing to have secured consent of the minor's parents or legal guardian prior to providing health care to the minor.

**2. Reliance on surrogate's consent.** Recovery is not allowed against any health care practitioner or health care provider upon the grounds that the health care was rendered without informed consent if consent is given by the minor's surrogate pursuant to section 1503-A and the health care practitioner or provider acts with good faith reliance on that consent.

**Sec. 4. 22 MRSA §1507**, as enacted by PL 1999, c. 90, §1, is amended to read:

**§1507. Consent for sexual assault forensic examination**

Notwithstanding the limitations set forth in section 1503 or the existence of a surrogate described in section 1503-A, a minor may consent to health ser-

vices associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault.

See title page for effective date.

**CHAPTER 445**

**H.P. 600 - L.D. 881**

**An Act To Allow the Public Utilities Commission To Contract for Liquefied Natural Gas Storage and Distribution**

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

**Sec. 1. 35-A MRSA §1902, sub-§2**, as enacted by PL 2013, c. 369, Pt. B, §1, is amended to read:

**2. Energy cost reduction contract.** "Energy cost reduction contract" ~~or "contract"~~ means a contract executed in accordance with this chapter to procure capacity on a natural gas transmission pipeline, including, when applicable, compression capacity.

**Sec. 2. 35-A MRSA §1902, sub-§§3-A, 3-B and 3-C** are enacted to read:

**3-A. Liquefied natural gas storage capacity.** "Liquefied natural gas storage capacity" means storage capacity for liquefied natural gas installed in the State on or after January 1, 2016 that will benefit the State's energy consumers during times of regional supply constraint due to capacity limitations of interstate or intrastate pipelines or local distribution systems.

**3-B. Physical energy storage capacity.** "Physical energy storage capacity" means liquefied natural gas storage capacity.

**3-C. Physical energy storage contract.** "Physical energy storage contract" means a contract executed in accordance with this chapter for physical energy storage capacity.

**Sec. 3. 35-A MRSA §1903, sub-§§1 and 2**, as enacted by PL 2013, c. 369, Pt. B, §1, are amended to read:

**1. Electricity prices.** It is in the public interest to decrease prices of electricity and natural gas for consumers in this State; ~~and~~

**2. Natural gas expansion.** The expansion of natural gas transmission capacity into this State and other states in the ISO-NE region could result in lower natural gas prices and, by extension, lower electricity prices for consumers in this State; ~~and~~

**Sec. 4. 35-A MRSA §1903, sub-§3** is enacted to read:

**3. Storage.** Liquefied natural gas storage located in this State, under certain circumstances, may offer the potential to decrease energy costs by providing a hedge against gas price volatility caused by gas supply constraints, which in turn may lower natural gas prices and, by extension, lower electricity prices for consumers in this State.

**Sec. 5. 35-A MRSA §1904**, as amended by PL 2015, c. 329, Pt. E, §1, is further amended to read:

**§1904. Energy cost reduction contracts; physical energy storage contracts**

The commission in consultation with the Public Advocate and the Governor's Energy Office may execute an energy cost reduction contract or a physical energy storage contract, or both, in accordance with this section. In no event may the commission execute energy cost reduction contracts for the transmission of greater than a cumulative total of 200,000,000 cubic feet of natural gas per day or for a total amount that exceeds \$75,000,000 annually. In no event may the commission execute physical energy storage contracts for a total amount that exceeds \$25,000,000 annually, and in no event may the total amount of all contracts entered into under this section exceed \$75,000,000 annually.

**1. Prior to executing an energy cost reduction contract.** Before executing an energy cost reduction contract, the commission shall:

A. Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for gas coming into New England and increase the efficiency with which gas brought into New England and Maine is transmitted, distributed and used. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction contract, the commission may not execute an energy cost reduction contract;

B. Explore all reasonable opportunities for private participation in securing additional gas pipeline capacity that would achieve the objectives in subsection 2. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction contract, the commission may not execute an energy cost reduction contract; and

C. In consultation with the Public Advocate and the Governor's Energy Office, hire a consultant with expertise in natural gas markets to make rec-

ommendations regarding the execution of an energy cost reduction contract. The commission shall consider those recommendations as part of an adjudicatory proceeding under subsection 2.

**1-A. Prior to executing a physical energy storage contract.** Before executing a physical energy storage contract, the commission shall:

A. Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the reliability risk faced by off-system natural gas users or on-system consumers and will provide a physical hedge to higher priced on-peak, winter period natural gas supplies. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for the State's electricity and gas customers as the execution of a physical energy storage contract, the commission may not execute a physical energy storage contract; and

B. Explore all reasonable opportunities for private participation that would achieve the objectives in subsection 2-A. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for the State's electricity and gas customers as the execution of a physical energy storage contract, the commission may not execute a physical energy storage contract.

**2. Commission determination of benefits for an energy cost reduction contract.** After satisfying the requirements of subsection 1, the commission may execute or direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to execute an energy cost reduction contract if the commission has determined, in an adjudicatory proceeding, that the agreement is commercially reasonable and in the public interest and that the contract is reasonably likely to:

A. Materially enhance natural gas transmission capacity into the State or into the ISO-NE region and that additional capacity will be economically beneficial to ~~electric~~ electricity consumers, natural gas consumers or both in the State and that the overall costs of the energy cost reduction contract are outweighed by its benefits to ~~electric~~ electricity consumers, natural gas consumers or both in the State; and

B. Enhance electrical and natural gas reliability in the State.

**2-A. Commission determination of benefits for a physical energy storage contract.** After satisfying the requirements of subsection 1-A, the commission may execute or direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to execute a physical energy storage con-

tract if the commission has determined, in an adjudicatory proceeding, that the physical energy storage contract is commercially reasonable and in the public interest and that the contract is reasonably likely to:

A. Materially enhance liquefied natural gas storage capacity in the State or the ISO-NE region and ensure that additional physical energy storage capacity will be economically beneficial to electricity consumers, natural gas consumers or both in the State and that the overall costs of the contract are outweighed by its benefits to electricity consumers, natural gas consumers or both in the State;

B. Provide the opportunity for access to lower cost natural gas at times of regional peak demand for natural gas supplies or in the event of upstream natural gas infrastructure disruption; and

C. Enhance electrical and natural gas reliability in the State.

**3. Parties to an energy cost reduction contract or a physical energy storage contract.** The commission may execute, or direct to be executed, an energy cost reduction contract or a physical energy storage contract, or both, that ~~contains~~ contain the following provisions.

A. The commission may direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to be a counterparty to an energy cost reduction contract or a physical energy storage contract, or both. In determining whether and to what extent to direct a utility to be a counterparty to ~~a contract~~ one or more contracts under this subsection, the commission shall consider the anticipated reduction in the price of gas or electricity or a reduction in the on-peak winter period price of gas or electricity, as applicable, accruing to the customers of the utility as a result of ~~the contract~~ one or more contracts as determined by the commission in an adjudicatory proceeding.

Any economic loss, including but not limited to any effects on the cost of capital resulting from an energy cost reduction contract or a physical energy storage contract for a transmission and distribution utility, a gas utility or a natural gas pipeline utility, is deemed to be prudent and the commission shall allow full recovery through the utility's rates.

B. If the commission concludes that an energy cost reduction contract or a physical energy storage contract can be achieved with the participation of other entities, the commission may contract jointly with other entities, including other state agencies and instrumentalities, governments in other states and nations, utilities and generators.

C. The commission may execute an energy cost reduction contract or a physical energy storage contract as a principal and counterparty.

**4. Approval by the Governor.** The commission may not execute or direct the execution of an energy cost reduction contract or a physical energy storage contract unless the Governor has in writing approved the execution of the energy cost reduction contract or a physical energy storage contract.

**Sec. 6. 35-A MRSA §§1905 to 1907**, as enacted by PL 2013, c. 369, Pt. B, §1, are amended to read:

**§1905. Funding of an energy cost reduction contract or a physical energy storage contract**

~~An energy cost reduction contract~~ Contracts under this chapter may be funded in accordance with this section.

**1. Assessments on ratepayers.** The commission may direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to collect an assessment from ratepayers for the following purposes:

A. To finance the participation of a transmission and distribution utility, a gas utility or a natural gas pipeline utility in an energy cost reduction contract or a physical energy storage contract; and

B. To pay the costs of energy cost reduction contract or physical energy storage contract evaluation and administration under section 1906, subsection 2.

All assessments must be just and reasonable as determined by the commission and must be identified as an energy cost reduction contract charge or a physical energy storage contract charge on a ratepayer's utility bill. When determining just and reasonable assessments, the commission shall consider the anticipated reduction in the price of gas or electricity, as applicable, accruing to different categories of ratepayers as a result of the contract.

**2. Assessments on utilities.** If the commission is the principal and counterparty on ~~the an energy cost reduction contract~~ or a physical energy storage contract, the commission may:

A. Assess one or more transmission and distribution utilities, gas utilities and natural gas pipeline utilities in proportion to the anticipated reduction in the price of gas or electricity, as applicable, accruing as a result of ~~the an energy cost reduction contract~~ or a physical energy storage contract to the customers of the utility for any and all net costs to the commission of the commission's performance of the contract as determined by the commission in an adjudicatory proceeding. The

cost to the utility of the assessment may be recovered by the utility in rates in the same manner as any other prudently incurred cost.

**3. Volumetric fee.** The commission may establish and direct the payment to the trust fund of a volumetric fee on the use of gas by a consumer of natural gas obtained from a source other than a gas utility or a natural gas pipeline utility of this State in proportion to the anticipated reduction in the price of gas accruing to that consumer as a result of ~~the~~ an energy cost reduction contract or a physical energy storage contract as determined by the commission in an adjudicatory proceeding.

#### §1906. Contract resale and administration

The following provisions govern the resale and evaluation and administration of an energy cost reduction contract or a physical energy storage contract.

**1. Resale of natural gas pipeline capacity.** The commission may negotiate and enter into contracts for the resale of all or a portion of the reserved natural gas transmission pipeline capacity acquired through an energy cost reduction contract. All of the revenue received as a result of the resale must be deposited into the trust fund.

**1-A. Resale of physical energy storage capacity.** The commission may negotiate and enter into contracts for the resale of all or a portion of the physical energy storage capacity acquired through a physical energy storage contract. All of the revenue received as a result of the resale must be deposited into the trust fund.

**2. Contract evaluation and administration.** The commission is responsible for assessing, analyzing, negotiating, implementing and monitoring compliance with energy cost reduction contracts and physical energy storage contracts. The commission may use funds for this purpose from the trust fund or may collect funds for this purpose through just and reasonable assessments placed on a transmission and distribution utility, a gas utility or a natural gas pipeline utility pursuant to section 1905, subsection 1, paragraph B.

Nothing in this section precludes a transmission and distribution utility, gas utility or natural gas pipeline utility from taking or having an interest in any facility subject to an energy cost reduction contract or a physical energy storage contract.

#### §1907. Revenues from energy cost reduction contracts and physical energy storage contracts

Revenues received from the resale of natural gas pipeline capacity acquired through an energy cost reduction contract or physical energy storage capacity acquired through a physical energy storage contract must be used in accordance with this section.

**1. Establishment of Energy Cost Reduction Trust Fund.** The Energy Cost Reduction Trust Fund is established as a nonlapsing fund administered by the commission for the purposes of this chapter. The commission is authorized to receive and shall deposit in the trust fund and expend in accordance with this section revenues received from an energy cost reduction contract and revenues received from the resale of natural gas pipeline capacity acquired through an energy cost reduction contract. The commission is authorized to receive and shall deposit in the trust fund and expend in accordance with this section revenues received from a physical energy storage contract and revenues received from the resale of physical energy storage capacity acquired through a physical energy storage contract.

The funds in the trust fund are held in trust for the purpose of reducing the energy costs of consumers in the State and may not be used for any other purpose, except as described in subsection 2.

**2. Distribution of funds.** The commission shall distribute funds in the trust fund in the following order of priority:

A. As a first priority, to the costs of monitoring and administering a contract pursuant to section 1906, subsection 2; and

B. As a 2nd priority, to utilities and other entities to reduce energy costs for electricity and natural gas ratepayers and consumers subject to a volumetric fee under section 1905, subsection 3. The commission may distribute funds to benefit ratepayers of one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities or consumers subject to a volumetric fee under section 1905, subsection 3 in a manner that the commission finds is equitable, just and reasonable.

**Sec. 7. 35-A MRSA §§1911 and 1912,** as enacted by PL 2013, c. 369, Pt. B, §1, are amended to read:

#### §1911. Reports

The commission shall include in its annual report under section 120, subsection 3 a description of its efforts to pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for natural gas coming into New England and data and analysis regarding leak emissions of greenhouse gases from liquefied natural gas storage that has been contracted for through a physical energy storage contract.

#### §1912. Limitation

The commission may not execute ~~an energy cost reduction contract~~ under this chapter a physical energy storage contract after June 1, 2017 or an energy cost reduction contract after December 31, 2018. The

commission may continue to administer existing physical energy storage contracts and enter into agreements regarding the resale of physical energy storage capacity purchased through a physical energy storage contract after June 1, 2017. The commission may continue to administer existing energy cost reduction contracts and enter into agreements regarding the resale of natural gas pipeline capacity purchased through an energy cost reduction contract after December 31, 2018.

**Sec. 8. Limitation on effectiveness and contracting authority.** Prior to September 1, 2016, the Public Utilities Commission may not initiate a proceeding for a physical energy storage contract on its own initiative or on the petition of any person, unless the commission has issued an order in the adjudicatory proceeding initiated under the Maine Revised Statutes, Title 35-A, chapter 19, pending as of February 1, 2016, for consideration of approval for one or more energy cost reduction contracts that includes a determination of the contract amounts to be purchased. The enactment of this Act may not be construed to reflect any legislative findings about the meaning of Public Law 2013, chapter 369, Part B, section 1, nor to have any substantive or procedural effect on the commission proceeding for consideration of approval for one or more energy cost reduction contracts pending as of February 1, 2016.

See title page for effective date.

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## CHAPTER 446

### H.P. 1061 - L.D. 1558

#### An Act To Enable Low-income and Other Customers Greater Access To Efficient Electric Heat Pumps through Unique Financing and Third-party Installation and Maintenance

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

**Sec. 1. 35-A MRSA §3105** is enacted to read:

**§3105. Heat pump program**

Notwithstanding any other provision of law, a transmission and distribution utility may develop and implement, upon approval of the commission, a program within its service territory to enable customers to access the benefits of efficient electric heat pumps as set forth in this section and may advertise the availability of its program to its customers. The program may serve any customer but must target low-income customers, senior citizens, customers who are unable to finance the purchase of a heat pump, customers who

reside in rental dwellings and small businesses. For purposes of this section, "efficient electric heat pump" means an electric heat pump that is consistent with eligibility criteria of the Efficiency Maine Trust, as established in section 10103, or criteria established by the commission by rule if the Efficiency Maine Trust does not establish such criteria. Rules adopted by the commission pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**1. Approval; activities of the utility.** A transmission and distribution utility that elects to offer a program pursuant to this section must submit a proposed program to the commission for approval. The commission shall examine the proposed program and, if it finds the proposed program is reasonably designed and consistent with the provisions and program elements of this section, shall approve the program. Notwithstanding any provision of law limiting the amount of investment or revenue a utility may make or receive in a business venture separate from the delivery of electricity, all activities of a transmission and distribution utility under an approved program must be considered an unregulated business venture of the utility in accordance with section 713. The prudent costs associated with the program are recoverable only from customers participating in a program through just and reasonable rates and charges approved by the commission.

**2. Program elements.** A transmission and distribution utility may, subject to approval under subsection 1, elect to offer a program consistent with the program elements set forth under paragraph A or B, or both. Based on the best available information at the outset of the program, the overall energy costs to customers under a program must be expected to decrease as a result of participation in the program, as measured by the overall energy costs to customers over the lifespan of the efficient electric heat pumps, regardless of the source of energy, and the costs associated with participation in the program.

A. A transmission and distribution utility may offer incentives to customers participating in the program to acquire efficient electric heat pumps from 3rd-party sellers or installers to be used to reduce the total installation cost of such heat pumps.

B. A transmission and distribution utility may provide an efficient electric heat pump to a customer within its service territory who requests a heat pump and who elects not to purchase and install a heat pump due to income or other reasons. The utility may own the heat pump provided to a customer participating in the program and may charge the customer for the costs associated with providing and maintaining the heat pump. Any