

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

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

Augusta, Maine
2023

C. Two ex officio nonvoting members as follows:

- (1) The Director of the Office of MaineCare Services within the Department of Health and Human Services or the director's designee; and
- (2) The Director of the Office of Affordable Health Care or the director's designee.

2. Chairs. The member of the Senate is the Senate chair and the member of the House of Representatives is the House chair of the task force. Notwithstanding Joint Rule 353, the chairs may appoint, as nonvoting members, individuals with expertise in health care policy, health care financing or health care delivery. Any additional members appointed pursuant to this subsection are not entitled to compensation or reimbursement under subsection 5.

3. Appointments; convening. All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. If 30 days or more after the effective date of this Act a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business.

4. Duties. The task force shall:

- A. Review the industry practices for charging facility fees, uses of the funds received as facility fees and impacts on patients of paying facility fees charged by health care providers;
- B. Review federal transparency requirements for hospitals and health insurance carriers regarding cost of treatment, identify any gaps or redundancies between state laws and federal laws and identify any problems with enforcement of those laws;
- C. Consider efforts in other states and by national organizations related to regulation of, or minimization of, facility fees and the potential effects such efforts might have on health care costs in this State; and
- D. Make recommendations for changes in laws or rules regarding facility fees and medical cost transparency based on the information examined under this subsection.

5. Compensation. The legislative members of the task force are entitled to receive the legislative per diem, as set out in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of

necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the task force.

6. Quorum. A quorum is a majority of the voting members of the task force, including those members invited to participate who have accepted the invitation to participate.

7. Staffing. The Legislative Council shall provide staff support for the task force. To the extent needed when the Legislature is in session, the Legislative Council may contract for such staff support if sufficient funding is available.

8. Consultants; additional staff assistance. The task force may solicit the services of one or more outside consultants to assist the task force to the extent resources are available. Upon request, the Office of Affordable Health Care, the Department of Health and Human Services, the Department of Professional and Financial Regulation, Bureau of Insurance and the Maine Health Data Organization shall provide additional staffing assistance to the task force to ensure the task force has the information necessary to fulfill their duties under this section.

9. Reports. The task force shall submit a report no later than December 6, 2023 that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Health Coverage, Insurance and Financial Services and the committee may report out a bill based on the report to the Second Regular Session of the 131st Legislature.

10. Additional funding; sources. The task force may apply for and receive funds, grants or contracts from public and private sources to support its activities under this section.

11. Definition. For purposes of this section, "facility fees" and "healthcare provider" have the same meanings as in the Maine Revised Statutes, Title 22, section 8712, subsection 2-A.

See title page for effective date.

CHAPTER 411

S.P. 815 - L.D. 1986

**An Act Relating to Net Energy
Billing and Distributed Solar
and Energy Storage Systems**

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

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

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

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

Sec. 2. 35-A MRSA §3209-A, sub-§9 is enacted to read:

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

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

An entity proposing the development of a distributed generation resource that does not meet the requirement of this subsection may petition the commission for a good-cause exemption due to external delays outside of the entity's control, which the commission may grant if it finds that without the external delays the entity could reasonably have been expected to meet the requirement.

Sec. 3. 35-A MRSA §3209-B, sub-§7, as enacted by PL 2021, c. 390, §2, is amended to read:

7. Applicability. The applicability of this section is limited by the requirements of section 3209-A, subsection 7 and subsection 9.

Sec. 4. 35-A MRSA §3209-B, sub-§8 is enacted to read:

8. Limitation. After December 31, 2023, a distributed generation resource may be used for net energy billing under this section only if the distributed generation resource is collocated with all of the distributed generation resource's net energy billing customers and those customers are subscribed to 100% of the facility's output under this section. This limitation does not apply to a distributed generation resource with a net energy billing agreement that was executed on or before December 31, 2023. An amendment, revision or reissuance of an agreement under this subsection that occurs after December 31, 2023 may not be interpreted to affect the date on which the agreement was initially executed.

Sec. 5. 35-A MRSA §3209-C is enacted to read:

§3209-C. Net energy billing cost recovery

The commission shall ensure that benefits of distributed generation under net energy billing are reported and net energy billing costs are allocated in accordance with this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Benefits of distributed generation under net energy billing" means all benefits determined by the commission to be reasonably attributable to distributed generation projects under section 3209-A and 3209-B, including but not limited to:

(1) Avoided energy and capacity costs. In determining avoided energy and capacity costs, the commission shall use reasonable estimates of energy and capacity market prices and account for transmission and distribution line losses. The commission may determine different avoided costs for different time periods, including, but not limited to, peak and off-peak periods and summer and winter periods;

(2) Avoided transmission and distribution costs. In determining avoided transmission and distribution costs, the commission shall use estimates of the marginal transmission and distribution costs and may determine different avoided costs for different time periods;

(3) Avoided fossil fuel costs. The commission shall determine avoided fossil fuel costs based on estimated reductions in oil, gas or other fossil fuel use and estimated market prices for these fuels;

(4) Avoided transmission and distribution line losses;

(5) Demand reduction induced price effects;

(6) Transmission and distribution plant extensions or upgrades funded by net energy billing customers; and

(7) Any other benefits identified by the commission.

B. "Net energy billing" means net energy billing arrangements under section 3209-A or 3209-B.

C. "Net energy billing costs" means all legitimate and verifiable costs incurred by a transmission and distribution utility directly attributable to net energy billing. "Net energy billing costs" does not include any costs incurred by a project sponsor as defined in section 3209-A, subsection 1, paragraph D, a net energy billing customer or any other entity, as determined by the commission by rule.

2. Determination of costs and benefits. The commission annually shall determine the net energy billing costs and benefits of distributed generation under net energy billing for the previous year.

A. When determining the benefits of distributed generation under net energy billing, the commission shall use any available regional avoided energy supply cost study that the commission finds to be applicable to the determination and has been developed through a transparent process, with input from state agencies, public advocates and utilities or energy efficiency administrators from at least 3 other states in New England. When relevant information specific to this State is not provided in the regional study, the commission may use the re-

gional information in the regional study or information from other sources supported by evidence in the commission's record.

B. The commission shall allocate to each investor-owned transmission and distribution utility its pro rata share of net energy billing costs. If the commission finds that a benefit of distributed generation under net energy billing provides a monetized net financial benefit to an investor-owned transmission and distribution utility that the commission does not otherwise account for when setting rates for the utility, the net financial benefit must be applied to offset the net energy billing costs allocated under this paragraph. The allocation must be based on each utility's total retail kilowatt-hour energy sales to ratepayers that pay net energy billing costs. The commission may determine the means to be used for the allocation required under this subsection, and those means may include the direct transfer of funds between transmission and distribution utilities.

3. Reporting of costs and benefits. The commission shall submit an annual report no later than March 31st to the joint standing committee of the Legislature having jurisdiction over utilities matters describing net energy billing costs and benefits of distributed generation under net energy billing determined by the commission under subsection 2. The report must include, but is not limited to, costs authorized to be collected by transmission and distribution utilities in rates and benefits directly received by ratepayers. The commission shall distinguish costs and benefits that are monetized from costs and benefits that are not monetized. If costs or benefits are monetized, the commission shall specify the entities to which the monetized value accrues, which may include, but are not limited to, electricity customers, electricity supply providers and transmission and distribution utilities.

4. Rules. The commission shall adopt rules necessary to implement this section. Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 35-A MRSA §3209-D is enacted to read:

§3209-D. Distributed generation procurement

The commission may direct an investor-owned transmission and distribution utility to enter into one or more contracts for energy or renewable energy credits from distributed generation resources in accordance with this section. The commission may not require a distributed generation resource to contract for the sale of energy or renewable energy credits under this section.

1. Definition. As used in this section, the following term has the following meaning.

A. "Distributed generation resource" means an electric generating facility that uses a renewable fuel or technology under section 3210, subsection 2, paragraph B-3, is located in the service territory of a transmission and distribution utility in the State and:

(1) Has met or is reasonably likely to meet the requirements of section 3209-A, subsection 7, paragraph E, as determined by the commission; or

(2) Has a nameplate capacity of at least one megawatt and not more than 2 megawatts and:

(a) Is a member of a cluster study conducted by the transmission and distribution utility with which the distributed generation resource is seeking to interconnect; or

(b) Is likely to receive required transmission approval from the New England independent system operator on or before April 30, 2024.

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

A. No later than January 31, 2024, the commission shall determine whether to conduct a competitive solicitation pursuant to this subsection.

B. If the commission conducts a competitive solicitation under paragraph A and determines that an initial procurement of energy or renewable energy credits is in the public interest, the commission shall select distributed generation resources for contracts under this section.

3. Additional contracting authority. After conducting one or more competitive solicitations under subsection 2, the commission may direct an investor-owned transmission and distribution utility to enter into one or more additional contracts for energy or renewable energy credits from distributed generation resources if the commission finds that such contracts are in the public interest.

A. A contract for energy or renewable energy credits from a distributed generation resource under this subsection may not establish a price for such energy or renewable energy credits that is greater than the highest price established in the procurements under subsection 2.

4. Contract terms. A contract entered into pursuant to this section must be for a term of no more than 20 years unless the commission finds a contract for a longer term to be in the public interest.

5. Net energy billing agreement termination. A distributed generation resource that is awarded a contract under this section is ineligible for net energy billing under section 3209-A or section 3209-B and the commission shall require all net energy billing arrangements or agreements be terminated as a condition of awarding a contract under this section.

6. Report. The commission shall include in its biennial report required by section 3210-G, subsection 3 information regarding the status of contracts for energy or renewable energy credits from distributed generation resources pursuant to this section, including, but not limited to, the number of distributed generation resources that have been awarded contracts, the total capacity of those resources and the estimated ratepayer savings as a result of those contracts.

Sec. 7. 35-A MRSA §3209-E is enacted to read:

§3209-E. Net energy billing cost management

1. Definitions. As used in this section, the following terms have the following meanings.

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

B. "Net energy billing cost" means a cost borne by ratepayers that is determined by the commission to be reasonably attributable to distributed generation projects participating in net energy billing arrangements under section 3209-A and section 3209-B.

C. "Opt-in program" means a program to reduce net energy billing costs in which a distributed generation resource may elect to participate.

2. Opt-in programs. The commission may develop and implement one or more opt-in programs in accordance with this section.

A. The commission shall conduct one or more proceedings to examine and evaluate opt-in program designs, including, but not limited to, designs that include long-term financial mechanisms and buy-down arrangements. In conducting an examination and evaluation in accordance with this paragraph, the commission shall consult with the Finance Authority of Maine and give preference to designs that enable the continued development and operation of distributed generation resources.

B. After examining and evaluating opt-in programs under paragraph A, if the commission finds the implementation of an opt-in program to be in the public interest, the commission shall establish and implement the opt-in program by rule.

C. The commission may not require a distributed generation resource to participate in an opt-in program established in accordance with this section.

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

Sec. 8. 35-A MRSA §3210-G, sub-§3, as enacted by PL 2019, c. 477, §2, is amended to read:

3. Report. No later than March 31, 2023 and biennially thereafter, the commission shall submit a report regarding the status of contracts for Class IA resources under this section and the status of contracts for energy or renewable energy credits from distributed generation resources under section 3209-D to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include, but is not limited to, a description of Class IA resources participating in competitive solicitations, information about the resources selected for contracts and the selection process, the benefits and costs of the contracts and recommendations about how to further stimulate investment in Class IA resources or achieve ratepayer benefits from Class IA resources. The report may include information about benefits and costs of the contracts to the State's economy, environmental quality or electricity consumers over both the short and long terms. Any analysis of the benefits or costs of the contracts must be based on a forecast of all avoided costs resulting from the contracts that is transparent and balanced over the long term.

Sec. 9. Interconnection of energy storage. In developing rules governing the interconnection of renewable resources and energy storage pursuant to the Maine Revised Statutes, Title 35-A, section 3474, subsection 3, the Public Utilities Commission shall consider whether modification of an interconnection application for the sole purpose of adding an energy storage system should materially impact the position of the project in an interconnection queue.

Sec. 10. Cost management report. By March 31, 2024, the Public Utilities Commission shall submit a report to the Joint Standing Committee on Energy, Utilities and Technology regarding the proceedings and any actions taken under the Maine Revised Statutes, Title 35-A, section 3209-E.

Sec. 11. Distributed Solar and Energy Storage Program design. In developing the Distributed Solar and Energy Storage Program under the Maine Revised Statutes, Title 2, section 9, subsection 6-A, the Governor's Energy Office shall ensure that the program is designed to address the recommendations contained in the Final Report of the Distributed Generation Stakeholder Group dated January 6, 2023 and submitted by the office to the Joint Standing Committee on Energy, Utilities and Technology pursuant to Public Law 2021, chapter 390, section 4.

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Distributed Solar and Energy Storage Program N470

Initiative: Provides allocations to establish the program.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

EXECUTIVE DEPARTMENT DEPARTMENT TOTALS	2023-24	2024-25
-----------------------------------------------	----------------	----------------

OTHER SPECIAL REVENUE FUNDS	\$500	\$500
DEPARTMENT TOTAL - ALL FUNDS	\$500	\$500

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Provides allocations for expenditures related to contracted services.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$252,553
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$252,553

PUBLIC UTILITIES COMMISSION DEPARTMENT TOTALS	2023-24	2024-25
------------------------------------------------------	----------------	----------------

OTHER SPECIAL REVENUE FUNDS	\$0	\$252,553
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$252,553

SECTION TOTALS	2023-24	2024-25
-----------------------	----------------	----------------

OTHER SPECIAL REVENUE FUNDS	\$500	\$253,053
SECTION TOTAL - ALL FUNDS	\$500	\$253,053

See title page for effective date.