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An Act To Create a Smart Grid Policy in the State

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State currently lacks a comprehensive state policy on smart grid energy infrastructure but faces critical decisions regarding the implementation of smart grid technology and the creation of such a comprehensive smart grid policy; and

Whereas, the cost of electricity to consumers in the State is high compared with costs in similar markets elsewhere and impedes economic development in the State; and

Whereas, the State has recognized the consequences of climate change and has committed to policies to reduce emissions of greenhouse gases; and

Whereas, the State's electric grid and long-term infrastructure investment are vital to continued security and economic development, and a smart grid will deliver electricity from suppliers to consumers using modern technology to increase reliability, save energy, reduce costs and enable greater consumer choice; and

Whereas, smart grid functions hold great promise to reduce costs for consumers by improving efficiency and enhancing reliability for the benefit of ratepayers and the general public, and smart grid applications that are available now to serve the needs of customers in the State and other public interests should be implemented in a timely and responsible manner in consideration of all relevant factors; and

Whereas, it is vital that a comprehensive smart grid policy be developed to ensure that all ratepayers and the State as a whole are afforded the benefits of smart grid infrastructure; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35-A MRSA §102, sub-§13, as amended by PL 1999, c. 579, §3, is further amended to read:

13. Public utility. "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area. "Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.

Nothing in this subsection precludes:

- A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;
- B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;
- C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and
- D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

Sec. 2. 35-A MRSA §3143 is enacted to read:

§ 3143. Declaration of policy on smart grid infrastructure

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

- A. "Smart grid" means the integration of information and communications innovations and infrastructure with the electric system to enhance the efficiency, reliability and functioning of the system through smart grid functions.
- B. "Smart grid coordinator" means an entity, authorized by the commission in accordance with subsection 5, that manages access to smart grid functions and associated infrastructure, technology and applications within the service territory of a transmission and distribution utility.
- C. "Smart grid functions" means those functions that advance the policy of the United States as specified in the federal Energy Independence and Security Act of 2007, Public Law 110-140, Section 1301, including functions that enable consumers to access information about and to manage and adjust their electricity consumption or to generate and store electricity and functions specified in Section 1306(d) of that Act.

2. Legislative findings. The Legislature finds that:

- A. The cost of electricity to consumers in this State is high in comparison to costs in similar markets and impedes economic development;
- B. The State has recognized the consequences of climate change and has committed to policies to reduce emissions of greenhouse gases;

C. The State's electric grid and long-term infrastructure investment are vital to continued security and economic development, and smart grid functions will deliver electricity from suppliers to consumers using modern technology to increase reliability and reduce costs in a way that saves energy and to enable greater consumer choice;

D. The State currently lacks a comprehensive smart grid policy but faces critical decisions regarding the implementation of smart grid functions and associated infrastructure, technology and applications, and the commission and the Legislature will play central roles in making those decisions; and

E. It is vital that a smart grid policy be developed in order to ensure that all ratepayers and the State as a whole are afforded the benefits of smart grid functions and associated infrastructure, technology and applications.

3. Smart grid policy; goals. In order to improve the overall reliability and efficiency of the electric system, reduce ratepayers' costs in a way that improves the overall efficiency of electric energy resources, reduce and better manage energy consumption and reduce greenhouse gas emissions, it is the policy of the State to promote in a timely and responsible manner, with consideration of all relevant factors, the development, implementation, availability and use of smart grid functions and associated infrastructure, technology and applications in the State through:

A. Increased use of digital information and control technology to improve the reliability, security and efficiency of the electric system;

B. Deployment and integration into the electric system of renewable capacity resources, as defined in section 3210-C, subsection 1, paragraph E, that are interconnected to the electric grid at a voltage level less than 69 kilovolts;

C. Deployment and integration into the electric system of demand response technologies, demand-side resources and energy-efficiency resources;

D. Deployment of smart grid technologies, including real-time, automated, interactive technologies that optimize the physical operation of energy-consuming appliances and devices, for purposes of metering, communications concerning grid operation and status and distribution system operations;

E. Deployment and integration into the electric system of advanced electric storage and peak-reduction technologies, including plug-in electric and hybrid electric vehicles;

F. Provision to consumers of timely energy consumption information and control options; and

G. Identification and elimination of barriers to adoption of smart grid functions and associated infrastructure, technology and applications.

It is the policy of the State to promote the development, implementation, availability and use of smart grid functions in accordance with this subsection in a manner that is consistent with applicable standards for reliability, safety, security and privacy and that takes into account the implementation of smart grid functions in other jurisdictions.

The commission may adopt rules regarding the implementation of smart grid functions in the State in accordance with this subsection, including, but not limited to, rules regarding cybersecurity and protection of consumer privacy, and access to smart grid infrastructure and information, including, but not limited to, open access issues, coordination between smart grid users and methods to address financial disincentives for transmission and distribution utilities to promote smart grid functions. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2A.

4. Resource assessment policy. In order to meet the goals of the smart grid policy as specified in subsection 3, it is the policy of the State that all available energy resources be assessed, including but not limited to the following types of resources:

- A. Energy efficiency;
- B. Demand management, including but not limited to establishment of time-of-use tariffs and performance-based rates;
- C. Renewable resources, as defined in section 3210, subsection 2, paragraph C;
- D. Energy resources, other than those listed in paragraph C, that are located in the State and are interconnected to the electric grid at a voltage level of less than 69 kilovolts; and
- E. Transmission lines for which a certificate of public convenience and necessity is required under section 3132, subsection 2.

5. Smart grid coordinator; authorization by the Public Utilities Commission; rules. Upon petition, the commission shall open an adjudicatory proceeding to determine whether it is in the public interest of the State to have one or more smart grid coordinators in order to achieve the purposes of and implement the policies specified in this section. If, in an adjudicatory proceeding conducted pursuant to this subsection, the commission finds that it is in the public interest, the commission may adopt, by rule or as part of the adjudicatory proceeding, standards regarding smart grid coordinators, including but not limited to:

- A. Eligibility, qualification and selection criteria;
- B. Duties and functions;
- C. The application or exemption from any provisions of this Title otherwise applicable to public utilities;
- D. The relationship between a smart grid coordinator and a transmission and distribution utility;
- E. Access to information held by the smart grid coordinator by 2nd and 3rd parties; and
- F. Data collection and reporting.

Pursuant to standards adopted by rule or in an adjudicatory proceeding pursuant to this subsection, the commission may authorize no more than one smart grid coordinator within each transmission and distribution utility service territory. A smart grid coordinator authorized under this subsection may operate as a transmission and distribution utility, under a commission-approved contract with a transmission and distribution utility or in some other manner approved by the commission. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.

6. Transition plan; displaced employees. If an investment in smart grid infrastructure by a transmission and distribution utility will lead to the displacement of 20 or more employees within a 3-year period, the transmission and distribution utility must file a transition plan for the displaced employees with the commission for approval and may not displace those employees unless the commission has approved a transition plan in accordance with this subsection.

A. If a transition plan filed with the commission has been agreed to by a collective bargaining agent representing the employees to be displaced, the commission must approve the plan. If a transition plan filed with the commission has not been agreed to by a collective bargaining agent representing the employees to be displaced, the commission may approve that plan only if the plan:

(1) Prioritizes the transition of the employees to employment within the transmission and distribution utility, to the extent feasible;

(2) Provides funds for worker education, training and support, including but not limited to tuition, fees, books, supplies, tools, equipment, child care, transportation and other assistance needed to obtain relevant remedial or prerequisite education or training, and maximizes the extent to which such education and training can be pursued while employed rather than after termination of employment;

(3) Demonstrates appropriate coordination with the Department of Labor; and

(4) Prevents unnecessary retraining and public assistance costs to the State, to the extent feasible.

B. In applying for federal or other grants for workforce training to support smart grid implementation, the commission, the Department of Labor, the Efficiency Maine Trust and any other agency or instrumentality of the State shall, to the extent permissible and feasible under the terms of the grant, give priority to assisting employees that are displaced as a result of the investment in smart grid infrastructure.

C. The commission shall permit a transmission and distribution utility to adjust its rates to recover costs incurred pursuant to this subsection.

For purposes of this subsection, "displaced employee" means an employee who is terminated from employment with a transmission and distribution utility; reduced to less than 75% of the hours traditionally required for the employee's position; involuntarily transferred to another position within the utility for less pay; or transferred to another position within the utility at a site more than 50 miles away from the employee's current site of employment.

7. Compliance with safety, security and reliability standards. In implementing the policies specified in this section, the commission and other agencies and instrumentalities of the State shall ensure that applicable regional, national and international grid safety, security and reliability standards are met. The commission and other agencies and instrumentalities of the State shall seek to cause standards that promote cost-effective technologies and practices supporting smart grid functions to be integrated into national and international grid safety, security and reliability standards.

8. Cost recovery. The commission shall, upon petition, permit a transmission and distribution utility to adjust its rates to recover the utility's prudently incurred incremental costs associated with implementing smart grid functions and associated infrastructure, technology and applications or otherwise taking reasonable actions consistent with the policies of this section, to the extent that the costs are not already reflected in the utility's rates and the adjustment does not result in rates that are unjust or unreasonable. A grant by a utility in an amount approved by the commission to the University of Maine System for smart grid research and development is deemed to be a prudently incurred incremental cost associated with implementing smart grid functions.

9. Report. The commission, as part of its annual report pursuant to section 120, shall include a report on the progress of the State in achieving the purposes of this section. The commission may include in its report any recommendations for changes to law to promote the purposes of this section.

10. Consumer education. A transmission and distribution utility that implements smart grid functions shall, to the extent the commission determines appropriate, provide information to customers about the purpose and goals of smart grid functions, the ways in which smart grid functions, including but not limited to time-of-use pricing, may involve customer interaction and how the implementation of smart grid functions can benefit customers.

11. Savings clause. Nothing in this section limits any other authority of the commission with respect to smart grid implementation.

Sec. 3. Report. As part of the report regarding smart grid policy implementation that is due February 1, 2011, pursuant to the Maine Revised Statutes, Title 35A, section 3143, subsection 9, the Public Utilities Commission shall report on the results or progress of any proceeding conducted pursuant to Title 35A, section 3143, subsection 5 and any recommendations regarding smart grid policy to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. Following review of the commission's recommendations, the joint standing committee may submit a bill regarding smart grid policy to the First Regular Session of the 125th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective 90 days following adjournment of the 124th
Legislature, Second Regular Session, unless otherwise indicated.