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No. 1085

S.P. 367

In Senate, March 19, 2013

An Act To Establish the Renewable Energy Feed-in Tariff

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator JOHNSON of Lincoln.
Cosponsored by Representative RUSSELL of Portland and
Senators: BOYLE of Cumberland, HASKELL of Cumberland, LACHOWICZ of Kennebec,
MILLETT of Cumberland, WOODBURY of Cumberland, Representatives: BERRY of
Bowdoinham, HARVELL of Farmington.

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

2 **Sec. 1. 35-A MRSA c. 44-A** is enacted to read:

3 **CHAPTER 44-A**

4 **RENEWABLE ENERGY RESOURCES FEED-IN TARIFF PROGRAM**

5
6 **§4421. Renewable energy resources feed-in tariff program**

7 **1. Program established.** The commission shall by rule establish a renewable energy
8 resources feed-in tariff program in order to encourage the rapid and sustainable
9 development of renewable energy resources and technology for environmentally healthy
10 generation of electricity and to decrease the demand for fossil fuel. In establishing the
11 program, the commission shall concentrate on electricity generation that contributes no
12 net carbon additions to the atmosphere.

13 **2. Standards of program.** The commission shall establish standards for the
14 interconnection of small renewable electric generators with the distribution systems of
15 transmission and distribution utilities; adopt standard contracts for use; establish rates,
16 charges, surcharges and incentives; and establish a program review process for the
17 program as described in this chapter.

18 **§4422. Definitions**

19 As used in this chapter, unless the context indicates otherwise, the following terms
20 have the following meanings.

21 **1. Net carbon addition.** "Net carbon addition" means an addition of carbon to the
22 atmospheric carbon cycle that was previously sequestered in a form of fossil fuel or any
23 waste product or byproduct of a fossil fuel.

24 **2. Renewable energy opportunity county.** "Renewable energy opportunity county"
25 means a county where the average weekly wages are at or below the mean average
26 weekly wages for the State as defined by the average of the 10 most recent years of
27 Department of Labor statistics.

28 **3. Small renewable electric generator.** "Small renewable electric generator" means
29 a system for the generation of electricity that contributes no net carbon additions to the
30 atmosphere, is no greater than 500 kilowatts in size, is majority owned by a person or
31 entity that owns less than 500 kilowatts of electricity generating capacity in the State and
32 uses the following renewable energy resources in this State:

33 A. Solar photovoltaic panels or solar thermal or concentrating solar systems;

34 B. Generators fueled by methane from sewage treatment facilities, landfills or
35 agricultural waste;

36 C. Generators fueled by combustion of biomass;

1 D. Tidal power projects; and

2 E. Wind energy.

3 **4. Utilized public property.** "Utilized public property" means:

4 A. A building or parking lot owned by the State or a county or municipal
5 government;

6 B. A school or school property that obtains the majority of its funding through
7 taxpayer dollars; or

8 C. Other property owned by a governmental unit that is not managed as a historic
9 site, public reserved land or state park.

10 **5. Value added.** "Value added" means a monetary total of all labor and materials
11 added to a product at each stage prior to sale to a wholesaler or consumer.

12 **§4423. Connection to transmission and distribution utility's distribution system**

13 A transmission and distribution utility shall connect a small renewable electric
14 generator to the existing electricity distribution system within 90 days of a request by a
15 small renewable electric generator.

16 **1. Interconnection standards.** The commission by rule shall establish reasonable
17 standards for the interconnection of small renewable electric generators with the
18 transmission and distribution systems of transmission and distribution utilities. The
19 standards must be consistent with generally accepted industry practices and guidelines
20 and must be established to ensure the reliability of electric service and the safety of
21 customers, transmission and distribution utilities' employees and the general public.

22 **2. Costs.** The costs associated with the interconnection must be included in the rates
23 under section 4425 as long as electric transmission lines already exist at the location of or
24 within 500 feet of the small renewable electric generator. If the small renewable electric
25 generator is more than 500 feet from existing electric transmission lines, the small
26 renewable electric generator bears the cost of interconnection.

27 **3. Fines.** A transmission and distribution utility that fails to connect a small
28 renewable electric generator to the transmission and distribution utility's distribution
29 system is subject to fines of not more than \$100 per day that the transmission and
30 distribution utility is in violation of this subsection.

31 **§4424. Standard contract**

32 The commission shall draft and make available a standard contract, with a duration of
33 not less than 20 years, for electricity purchases by a transmission and distribution utility
34 from a small renewable electric generator.

35 **1. Classes.** The contract must set the prices to be paid for each kilowatt-hour
36 generated by each class, as described in section 4425, subsection 1, of small renewable
37 electric generator.

1 **2. Deadline.** The commission shall adopt rules establishing the terms and conditions
2 for the standard contract no later than July 1, 2015.

3 **3. Contract.** On request of a small renewable electric generator, a transmission and
4 distribution utility must enter into a power purchase agreement by the standard contract
5 and at the proper classification to purchase all electricity from that small renewable
6 electric generator for a period of not less than 20 years.

7 **4. Transferable.** Executed contracts must be site specific and transferable.

8 **§4425. Rates and terms**

9 The commission shall set just and reasonable rates, as modified under sections 4423
10 and 4427, sufficient to provide revenues to operate and to attract necessary capital and
11 investment for small renewable electric generators to be paid by electric utilities to small
12 renewable electric generators under the standard contract under section 4424.

13 **1. Classes.** The rates must establish specific classes of small renewable electric
14 generators, both by type of renewable resource used and by amount of annual electrical
15 output, and for specific time periods of the contract's duration.

16 **2. Rates.** The commission shall establish rates to provide revenue for the following
17 purposes:

18 **A.** To pay for current expenses for operating and maintaining the generating system;

19 **B.** To pay the annual principal and interest due of loans for the construction of the
20 generating system;

21 **C.** To provide for an annual contribution, amortized over the life of the generating
22 system, to a contingency reserve fund up to an amount equal to 25% of the
23 operational budget for the generating system;

24 **D.** To make up for the avoided cost, if any, of building or purchasing additional
25 nonrenewable generated electricity;

26 **E.** To pay for any and all other reasonable costs and expenses related to generating
27 electricity by the small renewable electric generator;

28 **F.** To pay a minimum annual return of at least 3% and not more than 7% to an
29 efficiently designed small renewable electric generator for contracts initiated in the
30 first 2 years after July 1, 2015 for all renewable resources except solar photovoltaic
31 energy. Thereafter, every 2 years, the commission may reduce the minimum annual
32 return by 0.5%;

33 **G.** To pay a minimum annual return of at least 8% and not less than 10% to an
34 efficiently designed solar photovoltaic-powered small renewable electric generator
35 for contracts initiated in the first 2 years after July 1, 2015 for all installations made
36 over existing parking lots in existence for at least 10 years and mounted onto roofs
37 and buildings that have been in existence for at least 10 years. Thereafter, every 2
38 years, the commission may reduce the minimum annual return by 0.5%; and

1 H. To pay a reasonable annual return of not more than 5% for contracts initiated in
2 the first 2 years after July 1, 2015 to all other efficiently designed small renewable
3 solar-powered generators. Thereafter, every 2 years, the commission may reduce the
4 minimum annual return by 0.5%.

5 **3. Incentives.** The commission shall include the following incentives in each class
6 calculated on the rate established pursuant to subsection 2.

7 A. A small renewable electric generator certified as having at least 70% of its value
8 added in the State, exclusive of installation costs, must receive a 20% premium in
9 addition to the rates under section 4425. This incentive must be paid in addition to all
10 other incentives included in this section.

11 B. A small renewable electric generator certified as having at least 50% of its value
12 added in a renewable energy opportunity county must receive a 10% premium in
13 addition to the rates under section 4425. This incentive must be paid in addition to all
14 other incentives included in this section.

15 C. A small renewable electric generator that is installed on utilized public property
16 must receive a 5% premium in addition to the rates under section 4425 if the net
17 income generated from such production is used for governmental purposes and can
18 be demonstrated to have reduced taxes. This incentive must be paid in addition to all
19 other incentives included in this section.

20 D. A small renewable electric generator that uses naturally produced methane from
21 manure, decaying biomass or from landfills must receive a 10% premium in addition
22 to the rates under section 4425. This incentive must be paid in addition to all other
23 incentives included in this section.

24 **4. Design of rates; rulemaking.** The commission shall adopt rules by July 1, 2015
25 for the design of the rates under this section.

26 **§4426. Surcharge**

27 The commission shall, after notice and hearing, biannually establish a renewable
28 energy factor that must be a nonbypassable surcharge payable by every customer of a
29 transmission and distribution utility. The surcharge must be payable by all customer
30 classes. The commission shall set the surcharge at a level sufficient to pay the costs of
31 electricity purchased under section 4425 and any interconnection costs under section
32 4423. For the purpose of this section, "nonbypassable surcharge" means charges applied
33 to all customer billings in a given region whether they receive service from a local utility
34 or from a competitive supplier. These charges include transition charges, access charges,
35 regional levies and taxes. The surcharge is payable by all suppliers on a kilowatt-usage
36 basis.

37 **§4427. Review**

38 The commission shall review the rates established in section 4425 by January 1, 2016
39 and every 2 years thereafter and adjust those rates for new contracts as necessary to
40 account for inflation, assist in the profitable development of small renewable electric
41 generators, prevent excessive profits for small renewable electric generators and prevent

1 unnecessary costs to ratepayers. The commission shall reduce the rates in section 4425 to
2 reflect any federal or state subsidies, tax credits or other incentives that a small renewable
3 electric generator may receive.

4 **§4428. Report**

5 By July 15, 2015 and once every 4 years thereafter, the commission shall file a report
6 with the Governor and Legislature that must include the following:

7 **1. Kilowatt-hours.** The kilowatt-hours of electricity purchased from small
8 renewable electric generators;

9 **2. Number.** The number of new small renewable electric generators in the State and
10 the environmental effects of the addition of those generators;

11 **3. Recommendations.** Recommendations from the public or the commission for
12 legislation and changes to the rates and the terms of the standard contract that are in the
13 public interest; and

14 **4. Actions.** Actions taken by the commission to implement this chapter.

15 Small renewable electric generators shall, upon request, provide the commission any
16 information that may be relevant to the commission's performing its duties under this
17 chapter.

18 **§4429. Rules**

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

21 **SUMMARY**

22 This bill requires the Public Utilities Commission to establish a renewable energy
23 resources feed-in tariff program to encourage the rapid and sustainable development of
24 renewable energy resources and technology for environmentally healthy generation of
25 electricity. It requires that utilities purchase renewably produced electricity from all
26 qualified suppliers. It sets the rate that electric utilities must pay for such power. It
27 requires that utilities enter into a standard contract with all renewable energy suppliers for
28 a set term. It establishes for the Public Utilities Commission management and oversight
29 responsibilities.