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No. 1444

S.P. 499

In Senate, April 13, 2017

An Act Regarding Large-scale Community Solar Procurement

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator WOODSOME of York.

Cosponsored by Representative HARVELL of Farmington, Representative BERRY of Bowdoinham and

Senators: DION of Cumberland, SAVIELLO of Franklin, Representatives: GROHMAN of Biddeford, HARRINGTON of Sanford, HIGGINS of Dover-Foxcroft, SAMPSON of Alfred, SANBORN of Portland.

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

2 **Sec. 1. 35-A MRSA §3471-A** is enacted to read:

3 **§3471-A. Definitions**

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

6 **1. Credit rate.** "Credit rate" means the per kilowatt-hour rate used to calculate the
7 monetary value of a subscriber's share of the output of a large-scale community solar
8 distributed generation resource. The credit rate is equal to the per kilowatt-hour rate in
9 the long-term contracts entered into between the standard buyer and the project sponsor
10 pursuant to this chapter and must be the same for all subscribers of the large-scale
11 community solar distributed generation resource.

12 **2. Distributed generation resource.** "Distributed generation resource" means an
13 electric generating facility that uses a renewable fuel or technology as specified in section
14 3210, subsection 2, paragraph B-3 or is a microcombined heat and power system located
15 in the service territory of a transmission and distribution utility.

16 **3. Kilowatt.** "Kilowatt" means 1,000 watts, measured in direct current.

17 **4. Large-scale community solar distributed generation resource.** "Large-scale
18 community solar distributed generation resource" means a solar distributed generation
19 resource with a nameplate capacity of up to 5 megawatts, or other limit as determined by
20 commission rule under section 3476, subsection 8, that is selected in a procurement in
21 accordance with section 3476 and the beneficial use of the output of that solar distributed
22 generation resource is owned by or allocated to subscribers.

23 **5. Megawatt.** "Megawatt" means 1,000,000 watts, measured in direct current.

24 **6. Microcombined heat and power system.** "Microcombined heat and power
25 system" means a system that produces heat and electricity in a manner as defined by
26 commission rule.

27 **7. Output.** "Output" means energy, capacity, renewable energy certificates and all
28 other environmental attributes and market products that are available or may become
29 available from a distributed generation resource.

30 **8. Project sponsor.** "Project sponsor" means an entity, its successor or its assignee
31 that owns or operates a large-scale community solar distributed generation resource.

32 **9. Standard solar rate.** "Standard solar rate" means the highest awarded bid rate for
33 a long-term contract during the initial procurement for solar distributed generation
34 resources under section 3476, subsection 2.

35 **10. Subscriber.** "Subscriber" means a retail customer of a transmission and
36 distribution utility who owns or has the right to a subscription and who has identified an
37 account to which the subscription is attributed.

1 **11. Subscription.** "Subscription" means a proportional interest in a large-scale
2 community solar distributed generation resource. Each subscription must be sized to
3 represent at least one kilowatt of the resource's generating capacity, and the total expected
4 annual value of all of a customer's subscriptions may not exceed 120% of the customer's
5 most recent annual electricity bill.

6 **Sec. 2. 35-A MRSA §3473, sub-§§3 and 4** are enacted to read:

7 **3. Participation in wholesale markets.** The commission and investor-owned
8 transmission and distribution utilities shall take all reasonable steps to promote the
9 participation of distributed generation resources in the wholesale electricity market,
10 capacity market and ancillary service market.

11 **4. Change in tax treatment.** If a change in federal tax laws, rules or policy
12 materially modifies the burdens or costs to customers or utilities associated with the
13 procurement under this chapter, the commission shall issue a report to the joint standing
14 committee of the Legislature having jurisdiction over energy and utilities matters
15 describing the impact of these changes and recommending any actions necessary to
16 maintain the benefits of the procurements under this chapter.

17 **Sec. 3. 35-A MRSA §§3475 to 3477** are enacted to read:

18 **§3475. Standard buyer**

19 The standard buyer designated pursuant to this section must aggregate the output of
20 the portfolio of distributed generation resources procured pursuant to this chapter and sell
21 or use the output of these resources in a manner that maximizes the value of this portfolio
22 of resources to all ratepayers.

23 **1. Designation of standard buyer.** Each investor-owned transmission and
24 distribution utility serves as the standard buyer in its service territory, except that the
25 commission may designate another entity to serve as standard buyer if the commission
26 determines that such a designation is in the best interest of ratepayers. The standard
27 buyer is subject to the jurisdiction of the commission.

28 **2. Obligations of the standard buyer.** The standard buyer designated pursuant to
29 subsection 1 shall:

30 A. Serve as counterparty to and enforce long-term contracts with project sponsors
31 pursuant to section 3476;

32 B. Reimburse, when the standard buyer is not an investor-owned transmission and
33 distribution utility, the investor-owned transmission and distribution utility for any
34 bill credit or payment to a subscriber or project sponsor pursuant to section 3476;

35 C. Establish reasonable metering and measurement and verification requirements for
36 distributed generation resources;

37 D. Provide information needed to allocate eligible costs and benefits pursuant to
38 subsection 3; and

1 E. Provide to the commission aggregate data regarding the output of distributed
2 generation resources.

3 **3. Standard buyer cost allocation.** The commission and each standard buyer
4 designated pursuant to subsection 1 shall implement a transparent mechanism to track and
5 recover or distribute the eligible costs and benefits from procuring distributed generation
6 resources pursuant to this chapter. These eligible costs and benefits must be reviewed by
7 the commission annually and allocated to and recovered from ratepayers of the
8 transmission and distribution utility in whose territory the distributed generation resource
9 is located through a process established by the commission by rule. The process
10 developed by the commission must be similar to the allocation of costs and benefits of
11 long-term energy contracts in section 3210-F. Eligible costs and benefits include:

12 A. Incremental costs of serving as the standard buyer;

13 B. All payments to customers, subscribers and project sponsors under each
14 procurement pursuant to section 3476; and

15 C. All revenue from sale of the output of distributed generation resources procured
16 pursuant to this chapter.

17 Customers receiving service at a transmission or subtransmission voltage level as defined
18 in section 10110, subsection 6 are excluded from paying any costs or receiving benefits
19 associated with the procurement of distributed generation resources pursuant to this
20 chapter.

21 **4. Rules.** The commission shall adopt rules to implement this section. Rules
22 adopted under this subsection are routine technical rules as defined in Title 5, chapter
23 375, subchapter 2-A. The commission shall ensure that the rules and procedures
24 established under this chapter provide opportunities for entities other than the standard
25 buyer to aggregate and sell the output of distributed generation resources in the applicable
26 markets.

27 **§3476. Large-scale community solar procurement**

28 **1. Procurement goal.** The commission shall procure 120 megawatts of large-scale
29 community solar distributed generation resources by January 1, 2022. In order to
30 accomplish this goal, the commission shall conduct annual competitive solicitations, each
31 for 30 megawatts of large-scale community solar distributed generation resources.

32 **2. Initial procurement.** On or before March 1, 2018, the commission shall conduct
33 a competitive solicitation for an initial procurement of long-term contracts for the output
34 of at least 30 megawatts of large-scale community solar distributed generation resources
35 as part of the procurement goal in subsection 1. Bids must be accepted for 120 calendar
36 days and reviewed based on the requirements set forth in subsections 7, 8 and 9. The
37 highest awarded bid rate must be established as the standard solar rate for all awarded
38 bids in the initial procurement. If there is more than one bid at that rate, preference will
39 be given to the project that was submitted first, as determined by the time stamp showing
40 when the bid was received by the commission. The commission shall select and notify
41 successful bidders no later than 30 calendar days after the bid acceptance period has
42 ended.

1 **3. Declining block contract rate.** For each subsequent procurement for long-term
2 contracts for the output of 30 megawatts of large-scale community solar distributed
3 generation resources after the initial procurement in subsection 2, the commission shall
4 establish a declining block contract rate by reducing the rate awarded in the previous
5 procurement by no more than 3%.

6 **4. Subsequent procurements.** To ensure competition for procurements after the
7 initial procurement under subsection 2 for the output of 30 megawatts of large-scale
8 community solar distributed generation resources, the following standards apply:

9 A. Each procurement after the initial procurement must be open for 120 calendar
10 days;

11 B. In addition to a bidder's standard bid rate, a bidder must also provide a discounted
12 bid rate;

13 C. After the 120 calendar-day bid acceptance period ends, the commission shall
14 review bids in accordance with subsections 7, 8 and 9;

15 D. If the total bids received in the aggregate is for less than 30 megawatts, contracts
16 must be awarded to all bidders at the applicable declining block contract rate;

17 E. If the total bids received in the aggregate is for more than 30 megawatts,
18 preference will be given to those bidders with the lowest discounted bid rate and
19 contracts must be awarded to all selected bidders at the lowest qualified discounted
20 bid rate;

21 F. If there are multiple bids at the same discounted bid rate, preference will be given
22 to the project that was submitted first, as determined by the time stamp showing when
23 the bid was received by the commission; and

24 G. The commission shall select and notify successful bidders no later than 30
25 calendar days after the bid acceptance period has ended.

26 **5. Qualification for capacity allocation.** The commission shall set standards for
27 qualifications under the declining block contract rate. All qualified projects must
28 complete construction within 2 years of being awarded a contract. The commission may
29 by rule charge a capacity reservation fee to defray administrative costs.

30 **6. Standard contract.** Prior to a solicitation, the commission shall develop, in
31 consultation with the standard buyer, a standard contract that commits all parties to
32 commercially reasonable behavior and includes provisions to ensure that projects proceed
33 to commercial operation on a reasonable timeline.

34 **7. Bidder eligibility.** The commission shall establish minimum requirements for
35 bidders in a solicitation under this section, including, but not limited to, site control,
36 development experience, completion of an interconnection application and provision of
37 system details. Bidders must demonstrate development experience through relevant
38 experience and expertise in successfully developing, financing, constructing, operating
39 and maintaining a large-scale solar project and fulfilling its obligation to participating
40 subscribers. The commission may by rule require bidders to pay a bidding fee to defray
41 administrative costs.

1 **8. Ensuring competition.** The commission shall establish standards to ensure that
2 each solicitation under this section has a sufficient number of unique bidders and quantity
3 of offered capacity to be competitive. If the commission concludes based on these
4 standards that a solicitation is not competitive, no bidders may be selected and the
5 capacity available in that solicitation must be deferred to a subsequent solicitation. The
6 commission may by rule adjust the maximum project size eligible for a solicitation to
7 ensure that there is more than one bid selected.

8 **9. Bid selection.** Following review of bids in a solicitation under this section, if the
9 commission determines that the solicitation is competitive pursuant to subsection 8, the
10 commission shall select one or more winning bidders and direct the standard buyer to
11 negotiate and enter into a contract with the winning bidder or bidders for a term of 20
12 years at a specified contract rate. The commission shall select bids that maximize
13 benefits or minimize costs to all ratepayers.

14 **10. Payment and minimum subscription.** The project sponsor and subscribers
15 must receive the contract rate for the output of a large-scale community solar distributed
16 generation resource that is fully subscribed. For any portion not subscribed, the project
17 sponsor receives the wholesale rate.

18 At least 50% of the subscriptions to a large-scale community solar distributed generation
19 resource must be for 25 kilowatts or less, unless a municipality accounts for more than
20 50% of the subscriptions to a large-scale community solar distributed generation
21 resource. A municipality may not account for more than 70% of the subscriptions to a
22 large-scale community solar distributed generation resource.

23 **11. Determination of subscriber bill credit.** The bill credit to be allocated to each
24 subscriber to a particular large-scale community solar distributed generation resource
25 must be based on each subscriber's percentage interest of the total production of the
26 large-scale community solar distributed generation resource for the previous month.
27 Each billing month, the value of the credits allocated to each subscriber must be
28 calculated by multiplying the number of kilowatt-hours equal to each subscriber's share
29 by the credit rate. On a monthly basis, the project sponsor shall provide to the
30 transmission and distribution utility in a standardized and electronic format the
31 information required to calculate the bill credit to be provided to each subscriber. Credits
32 to a subscriber must be applied against the subscriber's monthly electricity bill in
33 accordance with section 3477. The transmission and distribution utility shall provide a
34 record to the project sponsor of the credits applied to the transmission and distribution
35 utility's associated subscribers each month after those credits are applied to the
36 subscriber's bill.

37 The monthly output available for allocation as subscribed or unsubscribed energy must be
38 determined by a revenue-grade meter installed and paid for by the project sponsor.

39 **12. Exemption.** A project sponsor or subscriber is not considered a public utility or
40 competitive electricity supplier solely as a result of the project sponsor's or subscriber's
41 interest or participation in a large-scale community solar distributed generation resource.

42 **13. Renewable energy credits.** The commission shall develop a standard disclosure
43 to be provided by the project sponsor to all participating subscribers prior to their entering

1 into a contract under this section that describes the effect of selling the renewable
2 attributes of exported electricity to the standard buyer and explains how a subscriber may
3 participate in the voluntary renewable energy credit market.

4 **14. Consumer protection.** The commission shall establish by rule consumer
5 protection standards to protect subscribers from fraud and other unfair and deceptive
6 business practices. The commission may impose administrative penalties upon a project
7 sponsor in accordance with chapter 15 and may order restitution for any party injured by
8 a violation for which a penalty may be assessed pursuant to chapter 15.

9 The commission through its own counsel or through the Attorney General may apply to
10 the Superior Court of any county of the State to enforce any lawful order made or action
11 taken by the commission pursuant to this subsection. The court may issue such orders,
12 preliminary or final, as it considers proper under the facts established before it.

13 **15. Disclosures.** A project sponsor selling or reselling a subscription in a large-scale
14 community solar distributed generation resource or proposed large-scale community solar
15 distributed generation resource shall provide a disclosure to potential subscribers that
16 includes the following prior to the sale or resale of that subscription:

17 A. A good faith estimate of the annual kilowatt-hours to be delivered by the large-
18 scale community solar distributed generation resource based on the size of the
19 subscriber's interest;

20 B. A plain language explanation of the terms under which the bill credits under
21 section 3477 will be calculated;

22 C. A plain language explanation of the contract provisions regulating the disposition
23 or transfer of the subscription; and

24 D. A plain language explanation of the costs and benefits to the potential subscriber,
25 based on the subscriber's current usage and applicable tariff, for the term of the
26 proposed contract.

27 The commission may establish a standard disclosure to be provided to potential
28 subscribers by a project sponsor to disclose this information or such other information as
29 the commission may determine necessary to protect the interests of potential subscribers.

30 **16. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to
31 the associated project sponsor or to any person or entity who qualifies to be a subscriber
32 in the large-scale community solar distributed generation resource. A project sponsor
33 must provide a process for assignment or transfer of a subscription. A project sponsor
34 may not impose transfer fees on a subscriber who moves to a different location within the
35 same utility service territory.

36 **17. Project sponsor report.** One year after commercial operation of a large-scale
37 community solar distributed generation resource commences, the project sponsor must
38 submit to the commission a report detailing what percentage of subscribers earn less than
39 the State's median income.

1 The bill gives the commission authority to establish requirements for bidder
2 eligibility and standards to ensure competition in the bidding process. The bill also
3 specifies that if the solicitation is determined competitive the commission must select one
4 or more winning bids and direct the standard buyer to negotiate and enter into a contract
5 with the winning bidder or bidders. If the commission concludes the solicitation is not
6 competitive, no bidders may be selected and the capacity available in that solicitation
7 must be deferred to a subsequent solicitation. The bill requires the commission to select
8 bids that maximize the benefits or minimize the costs to all ratepayers.

9 The bill requires after the first solicitation that the highest bid rate awarded a contract
10 is the standard solar rate. For each subsequent procurement for 30 megawatts of
11 large-scale community solar distributed generation resources, the commission must
12 establish a declining block rate by reducing the rate awarded in the previous procurement
13 by up to 3%. Bidders in subsequent procurement must submit both a standard bid rate
14 and a discounted bid rate. The bill specifies that if the total bids received in the aggregate
15 is for less than 30 megawatts in subsequent solicitations, contracts will be awarded to all
16 bidders at the applicable declining block rate; however, if the total bids received in the
17 aggregate is for more than 30 megawatts, preference will be given to those bidders with
18 the lowest discounted bid rate and contracts must be awarded to all selected bidders at the
19 lowest qualified discounted bid rate. The bill requires that if there are multiple bids at the
20 same discounted bid rate, preference will be given to the project that was submitted first,
21 as determined by the time stamp showing when the bid was received by the commission.

22 The bill specifies that the bill credit allocated to a subscriber to a particular large-
23 scale community solar distributed generation resource must be based on each subscriber's
24 percentage interest of the total production of the large-scale community solar distributed
25 generation resource for the previous month. The bill requires the project sponsor to
26 provide to the transmission and distribution utility, on a monthly basis, the information
27 required to calculate the bill credit to be provided to each subscriber. The bill includes
28 provisions on how payments to a subscriber must be credited against the subscriber's
29 monthly electricity bill.

30 The bill requires the Public Utilities Commission to adopt routine technical rules
31 regarding the procurement of large-scale community solar distributed generation
32 resources by January 1, 2018.