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Legislative Document

No. 1686

S.P. 622

In Senate, December 22, 2017

**An Act To Amend the Laws Regarding Distributed Energy
Generation and To Eliminate Gross Metering**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2017. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

Handwritten signature of Heather J.R. Priest in cursive.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

Cosponsored by Senators: DIAMOND of Cumberland, DILL of Penobscot, JACKSON of Aroostook, MIRAMANT of Knox, Representatives: BLACK of Wilton, MARTIN of Eagle Lake.

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

3 **Whereas,** the Public Utilities Commission has recently changed the rules governing
4 net energy billing in a way that penalizes self-generation; and

5 **Whereas,** the costs and complexities of implementing these rule changes are
6 disruptive to consumers; and

7 **Whereas,** passage of this Act as emergency legislation will avoid the
8 implementation of the most costly and complex provision of the amended rules; and

9 **Whereas,** recent outages of electric power have demonstrated the need for
10 predictable and fair distributed energy generation policy; and

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

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

16 **Sec. 1. 35-A MRSA §3209-A,** as corrected by RR 2017, c. 1, §32, is repealed and
17 the following enacted in its place:

18 **§3209-A. Net energy billing**

19 An eligible customer may participate in net energy billing in accordance with this
20 section.

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

23 A. "Eligible customer" means a person that obtains electricity service through a
24 transmission and distribution utility and that owns or has an interest in an eligible
25 facility located in that transmission and distribution utility's service territory.

26 B. "Eligible facility" means an electric energy generating facility that meets
27 eligibility requirements established by the commission by rule pursuant to subsection
28 4.

29 C. "Excess energy generation" means the amount of kilowatt-hours exported by an
30 eligible customer from an eligible facility to the transmission and distribution system
31 over a billing period that is greater than the amount of kilowatt-hours delivered by the
32 transmission and distribution utility to that eligible customer over that same billing
33 period.

34 D. "Gross output" means all of the energy generated by an eligible facility during an
35 applicable period, including all energy that is used to offset the usage of eligible
36 customers.

1 E. "Net energy" means the difference between the kilowatt-hours delivered by the
2 transmission and distribution utility to an eligible customer over a billing period and
3 the kilowatt-hours exported by that customer from an eligible facility to the
4 transmission and distribution system over the same billing period.

5 F. "Net energy billing" means a billing and metering practice under which an eligible
6 customer is billed on the basis of net energy.

7 G. "Shared interest" means an interest in an eligible facility shared by multiple
8 eligible customers that have distinct billing accounts with a transmission and
9 distribution utility.

10 H. "Transmission and distribution bill" means an eligible customer's bill, over a
11 billing period, for transmission and distribution utility service.

12 **2. Prohibition on gross output.** A transmission and distribution utility may not
13 require an eligible customer to meter the gross output of an eligible facility in order to
14 participate in net energy billing.

15 **3. Limit on accounts.** The number of eligible customers that participate in net
16 energy billing through a shared interest or the number of meters associated with a shared
17 interest may not exceed 50, except that the number of eligible customers or meters is
18 limited to 10 for a shared interest in an eligible facility located in the service territory of a
19 transmission and distribution utility located in an area administered by the independent
20 system administrator for northern Maine or any successor of the independent system
21 administrator for northern Maine unless the commission determines that the utility's
22 billing system can accommodate more than 10 accounts or meters for the purpose of net
23 energy billing.

24 **4. Rules.** The commission shall adopt rules governing net energy billing to
25 implement this section. The rules must apply the following percentages to the excess
26 energy generation that may be applied against an eligible customer's transmission and
27 distribution bill for the purposes of net energy billing:

28 A. Ninety percent for an eligible customer that applies for a net energy billing
29 arrangement after April 30, 2018 and before May 1, 2019;

30 B. Eighty percent for an eligible customer that applies for a net energy billing
31 arrangement after April 30, 2019 and before May 1, 2020; and

32 C. Seventy percent for an eligible customer that applies for net energy billing
33 arrangement after April 30, 2020 and before May 1, 2021.

34 For each 12-month period beginning after April 30, 2021, the commission by rule must
35 reduce the percentage of an eligible customer's excess energy generation that may be
36 applied against that customer's transmission and distribution bill for the purpose of net
37 energy billing by no more than 10%. During each such year, the reduction in the
38 percentage of an eligible customer's excess energy generation that may be applied against
39 that customer's transmission and distribution bill applies only to customers that apply for
40 a net energy billing arrangement in that 12-month period.

1 The rules must specify that an eligible customer that applies for a net energy billing
2 arrangement before May 1, 2018 may continue with the net energy billing arrangement
3 until April 30, 2033 and that an eligible customer that applies for a net energy billing
4 arrangement after April 30, 2018 may continue with that net energy billing arrangement
5 until April 30th of the calendar year that is 15 years from the year in which the customer
6 applied for the net energy billing arrangement.

7 Rules adopted or amended under this subsection are routine technical rules as defined in
8 Title 5, chapter 375, subchapter 2-A.

9 **Sec. 2. Report.** The Public Utilities Commission shall submit a report to the joint
10 standing committee of the Legislature having jurisdiction over utilities and energy
11 matters by January 1, 2020 that includes recommendations on how to transition from net
12 energy billing as governed by the Maine Revised Statutes, Title 35-A, section 3209-A to
13 time-of-use rates, market-based rates or other rate designs. The commission shall submit
14 information in its report on how its recommendations:

15 1. Promote distributed energy generation resources while supporting equitable
16 treatment of all customers and application of cost causation principles in rate design;

17 2. Integrate distributed energy generation resources to increase efficiency of the
18 electric grid while reducing costs for all ratepayers;

19 3. Use capabilities such as advanced metering investments by transmission and
20 distribution utilities to track exports to the grid and usage and to provide actionable price
21 signals to all customers, including those with distributed energy resources; and

22 4. Encourage integration of and compensation for small-scale distributed energy
23 resources in the regional markets.

24 The Public Utilities Commission shall conduct and include in its report an analysis of
25 the costs and benefits to ratepayers from net energy billing in an adjudicatory proceeding.
26 The analysis must include all identifiable costs and benefits for net energy billing
27 participants and nonparticipants, including but not limited to the costs and benefits
28 described in Public Law 2013, chapter 562, section 2. The analysis must at a minimum
29 consider costs and benefits over a 10-year period and a 25-year period. If uncertainty
30 exists with regard to a future cost or benefit, the commission shall use assumptions for
31 what it considers the most likely higher-value and lower-value scenarios. For any
32 recommendation made in the report, the commission shall quantify or estimate how the
33 recommended action would increase or decrease costs to ratepayers over both the short
34 term and the long term and how it is likely to affect solar installations. The commission
35 shall address how the effect of the recommendation compares to the current net energy
36 billing practice in terms of the effect on ratepayers and on the rate at which
37 customer-sited solar photovoltaic installations are occurring in the State.

38 In considering rate design options, the Public Utilities Commission, in consultation
39 with solar installers, transmission and distribution utilities, the Governor's Energy Office
40 and the Public Advocate, shall compile the best available data on the energy production
41 from customer-sited solar photovoltaic installations or other distributed energy generation

1 resources in this State and on electricity usage by customers with customer-sited solar
2 photovoltaic installations or other distributed energy generation resources.

3 The Public Utilities Commission shall also examine and report on market-based
4 procurement programs for community solar projects and how such a program can be
5 structured to provide benefits to ratepayers while encouraging community-based solar
6 photovoltaic installations.

7 At least 60 days before submitting the report under this section to the joint standing
8 committee of the Legislature having jurisdiction over utilities and energy matters, the
9 Public Utilities Commission shall post the report on its publicly accessible website.
10 Within that period of time, a member of the public may submit to the commission written
11 comments regarding the report. The commission shall submit all comments received
12 with the report to the committee.

13 The joint standing committee of the Legislature having jurisdiction over utilities and
14 energy matters may report out a bill based on the Public Utilities Commission's
15 recommendations to the Second Regular Session of the 129th Legislature.

16 **Sec. 3. Rules.** The Public Utilities Commission shall amend its net energy billing
17 rules before January 1, 2019 to be consistent with the Maine Revised Statutes, Title 35-A,
18 section 3209-A.

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

21 SUMMARY

22 This bill requires a net energy billing customer that applies for a net energy billing
23 arrangement after April 30, 2018 but before May 1, 2019 to receive 90% of the excess
24 energy generation from an eligible facility to be applied against the customer's
25 transmission and distribution bill, a customer that applies for a net energy billing
26 arrangement after April 30, 2019 but before May 1, 2020 to receive 80% of the excess
27 energy generation from an eligible facility to be applied against the customer's
28 transmission and distribution bill and a customer that applies for a net energy billing
29 arrangement after April 30, 2020 but before May 1, 2021 to receive 70% of the excess
30 energy generation from an eligible facility to be applied against the customer's
31 transmission and distribution bill. It requires that in each 12-month period after April 30,
32 2021, the percentage of an eligible customer's excess energy generation that applies to
33 that customer's transmission and distribution bill be reduced by no more than 10% and
34 that any reduction applies only to customers that apply for a net energy billing
35 arrangement in that 12-month period. It specifies that an eligible customer that applies
36 for a net energy billing arrangement before May 1, 2018 may continue with the net
37 energy billing arrangement until April 30, 2033 and that an eligible customer that applies
38 for a net energy billing arrangement after April 30, 2018 may continue with that net
39 energy billing arrangement until April 30th of the calendar year that is 15 years from the
40 year in which the customer applied for the net energy billing arrangement.

1 This bill prohibits a transmission and distribution utility from requiring a customer to
2 meter the gross output of an eligible facility in order to participate in net energy billing.
3 It limits to 50 the number of eligible customers that may participate in a single shared
4 interest in an eligible facility or the number of meters associated with a single shared
5 interest, except in the service territory of a transmission and distribution utility located in
6 an area administered by the independent system administrator for northern Maine. It
7 requires the Public Utilities Commission to amend its current net energy billing rules
8 before January 1, 2019 to be consistent with the Maine Revised Statutes, Title 35-A,
9 section 3209-A.

10 This bill also requires the Public Utilities Commission to submit a report by January
11 1, 2020 that includes recommendations on how to transition from net energy billing to
12 time-of-use rates, market-based rates or other rate design options. In its report, the
13 commission must include information regarding an analysis of costs and benefits of net
14 energy billing as well as how those costs and benefits compare to any recommendations
15 the commission makes in this report.