

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of sections 1 to 3 and inserting the following:

Sec. 1. 35-A MRSA §3210-C, sub-§1, ¶F is enacted to read:

F. "Renewable energy credit" means a tradable instrument that represents an amount of electricity generated from eligible resources as defined in section 3210, subsection 2, paragraph B or renewable capacity resources.

Sec. 2. 35-A MRSA §3210-C, sub-§1, ¶G is enacted to read:

G. "Triennial plan" has the same meaning as in section 10102, subsection 9.

Sec. 3. 35-A MRSA §3210-C, sub-§3, as repealed and replaced by PL 2009, c. 415, Pt. A, §21, is amended to read:

3. Commission authority. The commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for:

A. Capacity resources; and

B. Any available energy associated with capacity resources contracted under paragraph A:

(1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

(2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids; and

C. Any available renewable energy credits associated with capacity resources contracted under paragraph A to the extent the cost of the renewable energy credits is below market value or the purchase of renewable energy credits adds value to the transaction.

If at any time after July 1, 2011 the commission determines that the assessments on transmission and distribution utilities under section 10110, subsections 4 and 5 will not provide sufficient funds to meet the energy efficiency program budget allocations articulated in the triennial plan approved by the commission pursuant to section 10104, subsection 4 or any annual update plan approved by the commission pursuant to section 10104, subsection 6, the commission may, after providing notification to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, direct investor-owned transmission and distribution utilities to enter into long-term contracts for energy efficiency capacity resources and any available energy associated with such resources to the extent necessary to meet the energy efficiency program budget allocations articulated in the triennial plan or annual update plan.

The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers, only when such contracts are in the best interest of customers and only in accordance with this section. The commission may permit, but may not require, investor-owned transmission and distribution utilities to enter into contracts for differences that are designed and intended to buffer ratepayers in the State from potential negative impacts from transmission development. To the greatest extent possible, the commission shall develop procedures for long-term contracts for investor-owned transmission and distribution utilities under this subsection having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible,or demand response or energy efficiency capacity resources.

Capacity resources contracted under this subsection may not exceed the amount necessary to ensure the reliability of the electric grid of this State, to meet the energy efficiency program budget allocations articulated in the triennial plan as approved by the commission pursuant to section 10104, subsection 4 or any annual update plan approved by the commission pursuant to section 10104, subsection 6 or to lower customer costs as determined by the commission pursuant to rules adopted under subsection 10.

Unless the commission determines the public interest requires otherwise, a capacity resource may not be contracted under this subsection unless the commission determines that the capacity resource is recognized as a capacity resource for purposes of any regional or federal capacity requirements.

The commission shall ensure that any long-term contract authorized under this subsection is consistent with the State's goals for greenhouse gas reduction under Title 38, section 576 and the regional greenhouse gas initiative as described in the state climate action plan required in Title 38, section 577.

Sec. 4. 35-A MRSA §3210-C, sub-§6, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

6. Competitive solicitation process and contract negotiation.~~For~~Except as provided in paragraph A, for purposes of selecting potential capacity resources for contracting pursuant to subsection 3, the commission shall conduct a competitive solicitation no less often than every 3 years if the commission determines that the likely benefits to ratepayers resulting from any contracts entered into as a result of the solicitation process will exceed the likely costs. Following review of bids, the commission may negotiate with one or more potential suppliers. When only one bid has been offered, the commission shall ensure that negotiations are based on full project cost disclosure by the potential supplier. The commission shall negotiate contracts that are commercially reasonable and that commit all parties to commercially reasonable behavior.

A. The commission shall, for purposes of selecting energy efficiency capacity resources and available energy associated with such resources for contracting pursuant to subsection 3, conduct a competitive solicitation in accordance with this subsection or contract with the Efficiency Maine Trust established in section 10103 to deliver those resources through a competitive solicitation process administered by the trust.

Sec. 5. 35-A MRSA §3210-C, sub-§7, as repealed and replaced by PL 2009, c. 415, Pt. A, §22, is amended to read:

7. Disposition of resources. An investor-owned transmission and distribution utility shall sell capacity resources ~~and~~, energy or renewable energy credits purchased pursuant to subsection 3 or take other action relative to such capacity resources ~~and~~, energy or renewable energy credits as directed by the commission.

Sec. 6. 35-A MRSA §3210-C, sub-§9, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

9. Contract payments.~~Contracts~~Except as provided in paragraphs A and B, contracts for capacity ~~and~~resources, related energy or renewable energy credits entered into pursuant to this section must provide that payments will be made only after contracted amounts of capacity ~~and~~resources, related energy or renewable energy credits have been provided.

A. Contracts with the Efficiency Maine Trust established in section 10103 for energy efficiency capacity resources and related energy entered into pursuant to this section may provide that up to 20% of the total payment be made at the start of the contract. Such contracts must provide that the remaining payments will be made only after the supplier has demonstrated, according to measurement and verification protocols specified in rules adopted by the Efficiency Maine Trust Board pursuant to section 10105, subsection 5, that physical installations have been completed and contracted amounts of capacity resources and related energy have been substantiated.

B. Contracts with any entity other than the Efficiency Maine Trust established in section 10103 for energy efficiency capacity resources and related energy must provide that payments will be made only after the supplier has demonstrated, according to measurement and verification protocols specified in rules adopted by the Efficiency Maine Trust Board pursuant to section 10105, subsection 5, that physical installations have been completed and contracted amounts of capacity resources and related energy have been substantiated.'

Amend the bill in section 5 in subsection 4 in the first paragraph by striking out all of the 2nd sentence from the end (page 3, lines 21 to 23 in L.D.) and inserting the following: 'Beginning January 1, 2011, the triennial plan must specify the appropriate participation of the State in national and regional carbon markets.'

Amend the bill in section 5 in subsection 4 in paragraph F by striking out all of subparagraph (6) (page 5, lines 1 to 3 in L.D.) and inserting the following:

(6) Saving residential and commercial heating consumers not less than \$3 for every \$1 of program funds invested by 2020 in cost-effective heating and cooling measures that cost less than conventional energy supply;

Amend the bill by striking out all of section 6.

Amend the bill in section 8 in subsection 5 by striking out all of the last blocked paragraph (page 6, lines 13 to 30 in L.D.) and inserting the following:

‘For the purposes of this subsection, "gross operating revenue" means revenue derived from filed rates, except from sales for resale. The commission may correct any errors in the assessments under this subsection by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year. The commission shall determine the assessments under this subsection annually prior to ~~May~~June 1st and assess each utility for its pro rata share for expenditure, including funds for energy conservation programs, during the fiscal year beginning July 1st. The commission may not ~~charge~~increase any assessment under this subsection until the Legislature has approved the ~~commission's~~Efficiency Maine Trust's budget in accordance with section 116. ~~The~~Following the commission's approval of the triennial plan pursuant to section 10104, subsection 4 or any update plan pursuant to section 10104, subsection 6, the commission shall ~~separately identify~~present any recommended increase in the assessment under this subsection in its presentation of budget recommendations contained in any current services budget legislation and any supplemental budget legislation to the joint standing committee of the Legislature having jurisdiction over public utilities matters pursuant to section 116. Each utility shall pay the assessment charged to that utility under this subsection on the same schedule that payment of assessments under subsection 4 is required.’

Amend the bill by striking out all of section 9.

Amend the bill by inserting after section 10 the following:

‘Sec. 11. Review of long-term contracting. By January 15, 2012, the Public Utilities Commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding long-term contracts implemented pursuant to the Maine Revised Statutes, Title 35-A, section 3210-C, including the number, types and lengths of contracts. After review of the commission's report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit a bill regarding long-term contracts to the Second Regular Session of the 125th Legislature.

Sec. 12. Transmission and subtransmission voltage level electricity customers; participation in energy efficiency programs. The Efficiency Maine Trust established in the Maine Revised Statutes, Title 35-A, section 10103 shall convene a working group to examine options regarding the participation of electricity customers receiving service at transmission and subtransmission voltage levels in the energy efficiency programs of the trust, particularly those programs funded by assessments on transmission and distribution utilities. The working group shall, at a minimum, consider the opportunity for these customers to self-direct funding and other strategies. The Efficiency Maine Trust shall, at a minimum, invite the Office of the Public Advocate, the Public Utilities Commission, representatives of transmission and distribution utilities, representatives of industrial energy consumers

and representatives of environmental interests to participate in the working group. No later than January 31, 2011, the Efficiency Maine Trust shall submit a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the findings and recommendations of the working group. Following receipt and review of the report, the committee may submit a bill related to the report to the First Regular Session of the 125th Legislature.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes the following changes to the bill:

1. It adds a provision to the bill to allow long-term contracts for renewable energy credits associated with capacity resources.

2. It removes the requirement contained in the bill that the Public Utilities Commission direct investor-owned transmission and distribution utilities to enter into long-term contracts for capacity resources and associated energy. It replaces it with permissive language that authorizes the commission to direct utilities to enter into long-term contracts for energy efficiency capacity resources and associated energy if the commission determines that the assessments on transmission and distribution utilities for conservation and energy efficiency will not provide sufficient funds to meet the energy efficiency program budget allocations in the triennial plan of the Efficiency Maine Trust or an annual update to the triennial plan. It also clarifies that energy efficiency capacity resources contracted under this provision may not exceed what is necessary to implement the energy efficiency program budget allocations in the triennial plan. The amendment also adds language to clarify that the commission may direct utilities to enter into long-term contracts only when such contracts are in the best interest of customers.

3. It changes the provision of the bill regarding competitive solicitation for contracts for energy efficiency capacity resources to require the commission to either conduct a competitive solicitation for energy efficiency capacity resources and related energy or contract with the Efficiency Maine Trust to deliver those resources through a competitive solicitation process.

4. It changes the provision of the bill that exempts contracts for energy efficiency capacity resources from the requirement that payment be made only after contracted amounts of capacity and energy are provided. The amendment allows contracts with the Efficiency Maine Trust for energy efficiency capacity resources and related energy to provide a 20% up-front payment at the start of the contract, but otherwise requires payments only after contracted amounts of capacity and energy have been substantiated.

5. It removes the requirement in the bill that the triennial plan include an examination of national and regional carbon markets and instead requires that the plan specify the appropriate participation of the State in those carbon markets.

6. It removes the provision of the bill that eliminated the \$3 to \$1 savings target for cost-effective heating and cooling measures in the triennial plan of the Efficiency Maine Trust.

7. It removes the provision of the bill that authorizes the Efficiency Maine Trust to consult with or retain independent legal counsel.

8. It amends the provision of the bill regarding the imposition and review of additional assessments on transmission and distribution utilities to realize energy efficiency and demand response resources. The amendment specifies that the commission may not increase these assessments until the Legislature has approved the budget of the Efficiency Maine Trust and requires the commission to present any recommended increases in the assessment after its approval of the triennial plan or any annual update plan.

9. It replaces the provision of the bill regarding participation of electricity customers receiving service at transmission and subtransmission voltage levels in new conservation programs with a directive to the Efficiency Maine Trust to convene a working group to examine options regarding the participation of such customers in conservation programs and to submit a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 31, 2011 on this subject. The committee is authorized to submit a bill.

10. It adds a provision that requires the Public Utilities Commission to report, by January 15, 2012, on long-term contracts for capacity resources, including the number, types and lengths of contracts.