



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 41

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H.P. 42

House of Representatives, January 9, 2019

### **An Act To Replace Net Energy Billing with a Market-based Mechanism**

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative O'CONNOR of Berwick.  
Cosponsored by Senator TIMBERLAKE of Androscoggin and  
Representatives: BICKFORD of Auburn, GRIGNON of Athens, HANLEY of Pittston,  
SAMPSON of Alfred, STETKIS of Canaan, STEWART of Presque Isle, WADSWORTH of  
Hiram.

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

2 **Sec. 1. 35-A MRSA §3209-A**, as corrected by RR 2017, c. 1, §32, is repealed and  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

4 **§3209-A. Net energy billing**

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

7 A. "Eligible customer" means a person or an entity that takes electricity service  
8 through a transmission and distribution utility and that owns or has an interest in an  
9 eligible facility located in that transmission and distribution utility's service territory.

10 B. "Eligible facility" means an electric generating facility that meets eligibility  
11 requirements established by the commission by rule.

12 C. "Gross output" means all of the energy generated by an eligible facility during an  
13 applicable period, including all energy that is used to offset the usage of eligible  
14 customers.

15 D. "Net energy" means the difference between the kilowatt-hours delivered by the  
16 transmission and distribution utility to an eligible customer over a billing period and  
17 the kilowatt-hours exported by the customer from an eligible facility to the  
18 transmission and distribution system over the same billing period.

19 E. "Net energy billing" means a billing and metering practice under which customers  
20 are billed on the basis of net energy.

21 F. "Shared interest" means an interest in an eligible facility shared by multiple  
22 eligible customers that have distinct billing accounts with a transmission and  
23 distribution utility.

24 G. "Transmission and distribution bill" means an eligible customer's bill, over a  
25 billing period, for transmission and distribution utility service.

26 **2. Net energy billing.** A person that is an eligible customer as of December 31, 2019  
27 may elect net energy billing for the customer's accounts or meters in accordance with the  
28 following.

29 A. An eligible customer whose eligible facility is placed in service by December 31,  
30 2019 must be allowed to use net energy billing until December 31, 2034.

31 B. A transmission and distribution utility may not require an eligible customer to  
32 meter the gross output of an eligible facility in order to participate in net energy  
33 billing.

34 C. The number of eligible customers that participate in a single shared interest in an  
35 eligible facility or the number of meters associated with a single shared interest in an  
36 eligible facility may not exceed 50, except that the number of eligible customers or  
37 meters is limited to 10 for a shared interest in an eligible facility located in the service  
38 territory of a transmission and distribution utility located in an area administered by  
39 the independent system administrator for northern Maine or any successor of the

1 independent system administrator for northern Maine unless the commission  
2 determines that the utility's billing system can accommodate more than 10 accounts  
3 or meters for the purpose of net energy billing.

4 D. No new net energy billing arrangements may be entered into after December 31,  
5 2019.

6 **3. Rules.** The commission may adopt or amend rules governing net energy billing to  
7 implement this section. Rules adopted or amended under this section are routine technical  
8 rules as defined in Title 5, chapter 375, subchapter 2-A.

9 **Sec. 2. 35-A MRSA §3209-B** is enacted to read:

10 **§3209-B. Market-based crediting system**

11 The commission shall adopt rules in accordance with this section to create a market-  
12 based crediting system for energy generated by an eligible facility.

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

15 A. "Eligible customer" means a person or an entity that takes electricity service  
16 through a transmission and distribution utility and that owns or has an interest in an  
17 eligible facility located in that transmission and distribution utility's service territory.

18 B. "Eligible facility" means an electric generating facility, regardless of capacity,  
19 that meets noncapacity-related eligibility requirements established by the commission  
20 by rule.

21 C. "Gross output" means all of the energy generated by an eligible facility during an  
22 applicable period, including all energy that is used to offset the usage of eligible  
23 customers.

24 D. "Shared interest" means an interest in an eligible facility shared by multiple  
25 eligible customers that have distinct billing accounts with a transmission and  
26 distribution utility.

27 **2. Calculation of rates.** In accordance with rules adopted pursuant to this section,  
28 an eligible customer must receive a monetary credit for energy generated by an eligible  
29 facility in excess of the customer's usage and exported to the grid at the real-time  
30 wholesale market price of that energy, including the renewable energy credit value of the  
31 energy and capacity value, if such value can be monetized. The commission shall  
32 designate an entity located within each transmission and distribution service territory to  
33 purchase any electricity available from any eligible facility. The transmission and  
34 distribution utility serving the eligible customer shall administer the transaction between  
35 the eligible customer and the entity that purchases the electricity and shall aggregate and  
36 sell any renewable energy credits on behalf of the eligible customer.

37 A negative wholesale electricity price may not be used to calculate a bill credit under this  
38 section.

1           **3. Prohibition on gross output.** A transmission and distribution utility may not  
2 require a customer to meter the gross output of an eligible facility in order to participate  
3 in the crediting system under this section.

4           **4. Limit on accounts.** The number of eligible customers that participate in a single  
5 shared interest in an eligible facility or the number of meters associated with a single  
6 shared interest in an eligible facility may not exceed 50.

7           **5. Exemption.** This section does not apply to a transmission and distribution utility  
8 located in an area administered by the independent system administrator for northern  
9 Maine or any successor of the independent system administrator for northern Maine until  
10 such time as the commission determines the utility's billing system can perform the  
11 necessary functions to implement this section. The commission, as part of its rulemaking  
12 to implement this section, shall consider whether an alternative system could reasonably  
13 be developed for northern Maine in the interim period before the utility's billing system is  
14 modified to allow a market-based crediting system.

15           **6. Rules.** Rules adopted or amended pursuant to this section are routine technical  
16 rules as defined in Title 5, chapter 375, subchapter 2-A.

17           **Sec. 3. Community solar procurement.** The Public Utilities Commission shall  
18 procure, to the maximum extent possible, 20 megawatts of large-scale community solar  
19 distributed generation resources in accordance with the Maine Revised Statutes, Title  
20 35-A, section 3210-C by December 31, 2020. The long-term contract rate must be  
21 calculated annually, and no long-term contract entered into under this section may be for  
22 more than 6¢ per kilowatt-hour or the average wholesale electricity rate over the  
23 preceding 12 months, whichever is less. For purposes of this section, "large-scale  
24 community solar distributed generation resource" means a solar distributed generation  
25 resource with a nameplate capacity of greater than 660 kilowatts.

26           **Sec. 4. Report.** The Public Utilities Commission shall conduct an analysis of the  
27 costs and benefits to ratepayers for both net energy billing under the Maine Revised  
28 Statutes, Title 35-A, section 3209-A and the market-based crediting system in Title 35-A,  
29 section 3209-B in an adjudicatory proceeding. The analysis must at a minimum look at  
30 costs and benefits over a 10-year period and a 25-year period. Upon conclusion of this  
31 proceeding, but no later than January 1, 2021, the Public Utilities Commission shall  
32 submit a report to the joint standing committee of the Legislature having jurisdiction over  
33 utilities and energy matters that includes the results of this proceeding. The Public  
34 Utilities Commission shall also explore rate design options that would be in the best  
35 interest of ratepayers and support the long-term, sustainable development of distributed  
36 generation.

37           **Sec. 5. Rules.** The Public Utilities Commission shall amend its net energy billing  
38 rule to be consistent with the Maine Revised Statutes, Title 35-A, section 3209-A and  
39 adopt rules pursuant to Title 35-A, section 3209-B before January 1, 2020.

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## SUMMARY

2 This bill does the following regarding net energy billing:

3 1. It allows an eligible customer to elect net energy billing until December 31, 2019,  
4 after which time no new net energy billing arrangements may be allowed;

5 2. It allows net energy billing arrangements entered into prior to December 31, 2019  
6 to remain in effect until December 31, 2034;

7 3. It prohibits a transmission and distribution utility from requiring a customer to  
8 meter the gross output of an eligible facility in order to participate in net energy billing;  
9 and

10 4. It limits to 50 the number of eligible customers that may participate in a single  
11 shared interest in an eligible facility or the number of meters associated with a single  
12 shared interest, except in the service territory of a transmission and distribution utility  
13 located in an area administered by the independent system administrator for northern  
14 Maine.

15 The bill establishes a market-based crediting system for energy generated by eligible  
16 facilities. It requires the Public Utilities Commission to adopt rules to allow an eligible  
17 customer to receive a monetary credit for energy generated by an eligible facility in  
18 excess of the customer's usage and exported to the grid at the real-time wholesale market  
19 price of that energy. As in the provisions relating to net energy billing, a transmission and  
20 distribution utility is prohibited from requiring a customer to meter the gross output of an  
21 eligible facility in order to participate in the crediting system, and the number of eligible  
22 customers that may participate in a single shared interest in an eligible facility, or the  
23 number of meters associated with a single shared interest, is limited to 50. The bill  
24 exempts a transmission and distribution utility located in an area administered by the  
25 independent system administrator for northern Maine, or any successor of the  
26 independent system administrator for northern Maine, from using this crediting system  
27 until the Public Utilities Commission determines the utility's billing system can perform  
28 the necessary functions to implement the system. It requires the commission to consider  
29 whether an alternative system to the crediting system for northern Maine could be  
30 developed and utilized in the interim period before the utility's billing system is modified  
31 to allow a market-based crediting system.

32 It requires the Public Utilities Commission to procure, to the maximum extent  
33 possible, 20 megawatts of large-scale community solar distributed generation resources.  
34 It requires that the contract rate be calculated annually and that no contract may be for  
35 more than 6¢ per kilowatt-hour or the average wholesale electricity rate over the  
36 preceding 12 months, whichever is less.

37 Lastly, it requires the Public Utilities Commission to conduct an analysis of the costs  
38 and benefits to ratepayers for both net energy billing and the market-based crediting  
39 system in an adjudicatory proceeding and to report those findings to the joint standing  
40 committee of the Legislature having jurisdiction over utilities and energy matters no later  
41 than January 1, 2021.