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H.P. 1061

House of Representatives, April 11, 2011

An Act To Create Jobs through the Establishment of the Renewable Energy Resources Feed-in Tariff Program

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
Clerk

Presented by Representative RUSSELL of Portland.
Cosponsored by Senator ALFOND of Cumberland and
Representatives: BERRY of Bowdoinham, INNES of Yarmouth, KENT of Woolwich,
MacDONALD of Boothbay, Senator: BARTLETT of Cumberland.

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

2 **Sec. 1. 35-A MRSA §3218** is enacted to read:

3 **§3218. Renewable Energy Resources Feed-in Tariff Program**

4 **1. Program established.** The Renewable Energy Resources Feed-in Tariff Program
5 is established.

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

8 A. "Load pocket" means an area where there is insufficient transmission capability to
9 reliably supply the required electric load without relying on generation capacity that
10 is physically located in that area.

11 B. "Program" means the Renewable Energy Resources Feed-in Tariff Program.

12 C. "Project owner" means a person or entity that owns a renewable energy project.

13 D. "Renewable energy project" means a system for the generation of electricity that
14 is no greater than 20 megawatts in size and is fueled by one of the following
15 renewable energy resources in this State:

16 (1) Solar power;

17 (2) Wind power;

18 (3) Hydroelectric power; or

19 (4) Tidal power.

20 **3. Administration.** The commission shall administer the program as follows.

21 A. The commission shall limit participation in the program in accordance with this
22 paragraph.

23 (1) A renewable energy project must have an in-service date after January 1,
24 2012 and may not be part of a larger system or project.

25 (2) A renewable energy project may not simultaneously subscribe to both the
26 program and net energy billing as defined in commission rules. A renewable
27 energy project may participate in net energy billing at the expiration of a program
28 contract.

29 B. The commission shall prescribe an application form or procedure to apply to the
30 program under this section. The commission shall, within 45 days of receipt of a
31 completed application, determine in writing whether a renewable energy project
32 qualifies to participate in the program.

33 C. The commission shall exempt a consumer-owned transmission and distribution
34 utility from the program's requirements, if the utility so requests.

1 **4. Connection to electric distribution system.** A transmission and distribution
2 utility shall connect a renewable energy project to the utility's transmission or distribution
3 systems within 120 days of such a request by a project owner.

4 A. The commission shall establish standards for the interconnection of renewable
5 energy projects with the transmission and distribution systems of transmission and
6 distribution utilities. The standards must be consistent with generally accepted
7 industry practices and guidelines and ensure the reliability of electric service and the
8 safety of customers, utility employees and the general public.

9 B. The costs associated with the interconnection of a renewable energy project must
10 be included in the surcharge under subsection 7, paragraph A, as long as electric
11 transmission lines already exist at the location of or within 100 feet of the renewable
12 energy project. If the renewable energy project is more than 100 feet from existing
13 electric transmission lines, the project owner must bear the cost of interconnection.

14 C. A transmission and distribution utility that fails to connect a renewable energy
15 project to the utility's transmission or distribution systems is subject to fines of not
16 more than \$100 per day that the transmission and distribution utility is in violation of
17 this subsection.

18 **5. Standard contract.** After the commission has developed and adopted a standard
19 contract pursuant to paragraph A, a transmission and distribution utility shall enter into a
20 power purchase agreement for a term of not less than 20 years to purchase all electricity
21 generated by an approved renewable energy project. A transmission and distribution
22 utility must purchase the electricity generated by a renewable energy project at a fixed
23 rate, as determined by the commission.

24 A. Within 6 months of the effective date of this section, the commission shall
25 develop and adopt a standard contract to be used in all power purchase agreements
26 under this section. The contract must include the prices paid for each kilowatt-hour
27 generated and the duration of the contract.

28 B. The contract must set the prices to be paid for each kilowatt-hour generated by
29 each class, as described in subsection 6, paragraph A, of approved renewable energy
30 projects.

31 C. Executed contracts must be site-specific and transferable.

32 (1) If a renewable energy project under a standard contract is transferred to a
33 new project owner, the new project owner must notify the transmission and
34 distribution utility within 30 days of the transfer in order to continue receiving
35 payments under existing terms of the previous project owner's standard contract
36 for the electricity generated from the renewable energy project.

37 **6. Rates and terms.** The commission shall set just and reasonable rates sufficient to
38 provide revenues to operate and to attract necessary capital and investment for renewable
39 energy projects to be paid by transmission and distribution utilities to project owners
40 under the standard contract.

1 A. The rates must establish specific classes of renewable energy projects, both by
2 type of renewable resource used and by amount of annual electrical output, and for
3 specific time periods of the contract's duration.

4 B. The commission shall adopt fixed rates for each class of renewable energy project
5 to equal the average generation costs of each renewable energy project plus a rate of
6 return of no more than 3.5%. With regard to solar-powered renewable energy
7 projects, that rate of return applies only to projects sited within load pockets. For all
8 other solar-powered renewable energy projects, the rate equals the average generation
9 costs, without a rate of return. The commission shall include, but is not limited to,
10 the following factors in calculating the average generation cost of a renewable energy
11 project:

- 12 (1) The requirements of chapter 3;
- 13 (2) Installed capital costs;
- 14 (3) Fixed and variable operation and management expenses;
- 15 (4) Fuel costs;
- 16 (5) Cost of financing;
- 17 (6) Insurance;
- 18 (7) Transmission and interconnection costs; and
- 19 (8) Estimated project life and projected generation degradation.

20 In developing the rate, the commission shall ensure the rate is reasonable and fair to
21 the project owner and to ratepayers. For purposes of calculating the average
22 generation costs for each class of renewable energy project, the commission shall
23 assume that the project is sited and designed in an optimal manner, such that only the
24 most cost-effective projects within a class are likely to realize a 3.5% rate of return.

25 C. The transmission and distribution utility shall retain any credits or payments for
26 the nongeneration aspects of a renewable energy project under the program, including
27 but not limited to:

- 28 (1) Renewable energy credits as defined in section 3210, subsection 2, paragraph
29 B-2;
- 30 (2) Payments under the forward capacity market, as defined in section 10102,
31 subsection 6, administered by the regional transmission organization, as defined
32 in section 10102, subsection 8, or other capacity payments; and
- 33 (3) Voluntary carbon market payments or credits under chapter 97.

34 **7. Cost recovery.** The commission shall, after notice and hearing, annually approve
35 a mandatory renewable energy surcharge payable by customers of transmission and
36 distribution utilities.

37 A. The commission shall set the surcharge at a level sufficient to pay the costs of
38 electricity purchased under subsection 6 and any interconnection costs under
39 subsection 4, taking into account factors including but not limited to avoided costs
40 attributable to the program; the value of any of the payments and credits described in

1 subsection 6, paragraph C; and any systemwide financial benefit that the program
2 provides for ratepayers.

3 B. An electricity customer receiving service at transmission or subtransmission
4 voltage levels, as defined in section 10110, subsection 6, is not eligible to participate
5 in the program and is not required to pay in rates any amount associated with the
6 surcharge imposed under paragraph A.

7 **8. Review.** The commission shall review the rates established in subsection 6
8 annually and shall adjust those rates for new contracts as necessary to assist in the
9 profitable development of renewable energy projects, prevent excessive profits for project
10 owners and prevent unnecessary costs to ratepayers. The commission shall reduce the
11 rates in subsection 6 to reflect any governmental subsidies, tax credits or other incentives
12 that a project owner may receive.

13 **9. Report.** In each of the first 2 years of the program and every 4 years thereafter,
14 the commission shall file a report with the Governor and Legislature that includes the
15 following:

16 A. The kilowatt-hours of electricity purchased from eligible electricity generators;

17 B. The number of new eligible electricity generators in this State and the
18 environmental effects of the addition of those generators;

19 C. Recommendations for legislation and changes to the rates and terms of the
20 standard contract; and

21 D. Actions taken by the commission to implement this section.

22 Project owners shall, upon request, provide the commission with any information that
23 may be relevant to the commission's performing its duties under this section.

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

27 SUMMARY

28 This bill requires the Public Utilities Commission to establish a renewable energy
29 resources feed-in tariff program to encourage the rapid and sustainable development of
30 renewable energy resources and technology for the clean generation of electricity. It
31 requires that transmission and distribution utilities purchase electricity produced by
32 renewable energy systems at commission-prescribed rates that give high-performing
33 generators a rate of return of no more than 3.5%. It requires that utilities enter into
34 standard contracts with qualified project owners. It includes provisions for commission
35 and legislative oversight of the program.