



132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 359

S.P. 146

In Senate, February 3, 2025

An Act to Prohibit Net Energy Billing by Certain Customers

Received by the Secretary of the Senate on January 30, 2025. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BICKFORD of Androscoggin.
Cosponsored by Senators: BRADSTREET of Kennebec, CYRWAY of Kennebec,
HARRINGTON of York, Representative: WADSWORTH of Hiram.

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

2 **Sec. 1. 26 MRSA §1304, sub-§1-A**, as enacted by PL 2021, c. 705, §2, is amended
3 by amending the first blocked paragraph to read:

4 "Assisted project" does not include a project for which the Public Utilities Commission
5 approved a term sheet or contract or otherwise provided project-specific authorization or
6 approval pursuant to Title 35-A on or before June 29, 2021 or a project that is participating
7 in net energy billing ~~and that meets the requirements of Title 35-A, section 3209-A,~~
8 ~~subsection 7 or Title 35-A, section 3209-B.~~

9 **Sec. 2. 35-A MRSA §3209-A**, as amended by PL 2023, c. 230, §1 and c. 411, §2,
10 is further amended to read:

11 **§3209-A. Net energy billing**

12 The commission may adopt or amend rules governing net energy billing. Rules adopted
13 or amended under this section are major substantive rules as defined in Title 5, chapter 375,
14 subchapter 2-A.

15 **1. Definitions.** As used in this section, the following terms have the following
16 meanings.

17 A. "Customer" means a customer of a transmission and distribution utility in the State.

18 B. "Distributed generation resource" means an electric generating facility that ~~uses a~~
19 ~~renewable fuel or technology under section 3210, subsection 2, paragraph B-3 and is~~
20 ~~located in the service territory of a transmission and distribution utility in the State.:~~

21 (1) Uses a renewable fuel or technology under section 3210, subsection 2,
22 paragraph B-3;

23 (2) Is located in the service territory of a transmission and distribution utility in
24 the State;

25 (3) Is located on the same side of the meter as the net energy billing customer;

26 (4) Is used primarily to serve the electric load of that customer; and

27 (5) Meets the criterion that 100% of the net energy billing credits associated with
28 the output of the distributed generation resource are allocated to the retail account
29 of that customer.

30 C. "Net energy billing" means a billing and metering practice under which a customer
31 is billed on the basis of the difference between the kilowatt-hours delivered by a
32 transmission and distribution utility to the customer over a billing period and the
33 kilowatt-hours delivered by the customer to the transmission and distribution utility
34 over the billing period, taking into account accumulated unused kilowatt-hour credits
35 from the previous billing period.

36 D. ~~"Project sponsor" means an entity or its successor or assignee that solicits customers~~
37 ~~to participate in a net energy billing arrangement based upon a shared financial interest~~
38 ~~in a distributed generation resource.~~

39 **2. Financial interest required.** The commission shall allow a customer to participate
40 in net energy billing if the customer has a financial interest in a distributed generation
41 resource ~~or in a generation resource that has a net energy billing arrangement on the~~

1 effective date of this section, including facility ownership, a lease agreement or a power
2 purchase agreement.

3 **~~3. Shared financial interest for investor-owned utility customers; limitation.~~**

4 Multiple customers of an investor-owned transmission and distribution utility that have
5 distinct billing accounts with that utility may share a financial interest in a distributed
6 generation resource under subsection 2. Any number of customers of an investor-owned
7 transmission and distribution utility with a shared financial interest in a distributed
8 generation resource may participate in net energy billing, except that the number of eligible
9 customers or meters is limited to 10 for a shared financial interest in a distributed generation
10 resource located in the service territory of an investor-owned transmission and distribution
11 utility located in an area administered by the independent system administrator for northern
12 Maine or any successor of the independent system administrator for northern Maine unless
13 the commission determines that the utility's billing system can accommodate more than 10
14 accounts or meters for the purpose of net energy billing.

15 **~~4. System size.~~** The nameplate capacity of a distributed generation resource that may
16 be used for net energy billing must be less than 5 megawatts, except that, if a municipality
17 is the customer participating in net energy billing, the nameplate capacity of a distributed
18 generation resource located in that municipality that may be used for the net energy billing
19 may be 5 megawatts or more, as long as less than 5 megawatts of metered electricity from
20 the resource is used for net energy billing.

21 **~~5. Consumer protection.~~** To protect customers who participate in or are solicited to
22 participate in a net energy billing arrangement based upon a shared financial interest in a
23 distributed generation resource from fraud or unfair and deceptive business practices, a
24 project sponsor:

25 A. ~~Must obtain a customer's explicit affirmative authorization before serving the~~
26 ~~customer;~~

27 B. ~~Must provide to a residential customer such information as the commission may~~
28 ~~require by rule or order in a standard disclosure form before entering into an agreement~~
29 ~~with the residential customer to participate in a net energy billing arrangement based~~
30 ~~upon a shared financial interest in a distributed generation resource;~~

31 C. ~~Must allow a customer to rescind the customer's decision to participate in a net~~
32 ~~energy billing arrangement based upon a shared financial interest in a distributed~~
33 ~~generation resource, as long as the customer requests such rescission orally or in~~
34 ~~writing within 5 days of the customer's receipt of the first bill or invoice under the~~
35 ~~arrangement that the customer is responsible for paying in full;~~

36 D. ~~May not collect or seek to collect unreasonable costs from a customer who is in~~
37 ~~default;~~

38 E. ~~Must comply with any other applicable standards or requirements adopted by the~~
39 ~~commission by rule or order;~~

40 F. ~~May not release to any other entity, other than for purposes of debt collection or~~
41 ~~credit reporting pursuant to state and federal law or to law enforcement agencies~~
42 ~~pursuant to lawful process, any personal information regarding a customer, including~~
43 ~~name, address, telephone number and usage and historical payment information,~~
44 ~~without the explicit affirmative consent of the customer;~~

- 1 G. Must comply with the Maine Unfair Trade Practices Act;
- 2 H. Must comply with all applicable provisions of the federal Equal Credit Opportunity
- 3 Act, 15 United States Code, Sections 1691 to 1691f; and
- 4 I. Must comply with all federal and state laws, federal regulations and state rules
- 5 regarding the prohibition or limitation of telemarketing.

6 **6. Enforcement.** The commission, through its own counsel or through the Attorney
7 General, may apply to the Superior Court of any county of the State to enforce any lawful
8 order made or action taken by the commission pursuant to subsection 5, paragraphs A to
9 E, and the court may issue any preliminary or final order that the court determines proper.
10 The commission may impose administrative penalties under chapter 15 upon a project
11 sponsor and may order restitution for any party injured by a violation for which a penalty
12 may be assessed pursuant to chapter 15. If the commission has reason to believe a project
13 sponsor has violated subsection 5, paragraphs F to I, the commission shall report this
14 information to the Attorney General for appropriate action. A violation of subsection 5 is
15 a violation of the Maine Unfair Trade Practices Act.

16 **7. Applicability.** A distributed generation resource with a nameplate capacity of
17 greater than 2 megawatts and not more than 5 megawatts may be used for net energy billing
18 under this section only if the requirements of paragraph A, B or C are met and all the
19 requirements of paragraphs D and E are met.

20 A. In order for a distributed generation resource to be used for net energy billing, one
21 of the following must have been met on or before December 31, 2020:

- 22 (1) There is a signed interconnection agreement between the entity proposing the
- 23 development of the distributed generation resource and a transmission and
- 24 distribution utility governing the connection of the resource to the utility's system
- 25 and the ongoing operation of the resource after it is connected to the system; or
- 26 (2) There is a net energy billing agreement between the entity proposing the
- 27 development of the distributed generation resource and the transmission and
- 28 distribution utility.

29 An amendment, revision or reissuance of an agreement under this paragraph that occurs
30 after December 31, 2020 may not be interpreted to affect the date on which the initial
31 agreement was signed.

32 B. In order for a distributed generation resource to be used for net energy billing, one
33 of the following must have been met on or before April 30, 2021:

- 34 (1) A complete application for a customer net energy billing agreement has been
- 35 submitted for the distributed generation resource and a customer has or customers
- 36 have financial interest in 90% or more of the capacity of that distributed generation
- 37 resource; or
- 38 (2) There is a fully executed net energy billing agreement between a customer or
- 39 sponsor of the distributed generation resource and the transmission and distribution
- 40 utility for the distributed generation resource and a customer has or customers have
- 41 financial interest in 90% or more of the capacity of that distributed generation
- 42 resource.

1 C. In order for a distributed generation resource to be used for net energy billing, the
2 following must have been met on or before June 1, 2021:

3 (1) The interconnection study process has commenced for a distributed generation
4 resource located in those portions of the service territory of an investor-owned
5 transmission and distribution utility that are not connected to the ISO-NE region
6 as defined in section 1902, subsection 3.

7 D. In order for a distributed generation resource to be used for net energy billing, all
8 of the following must be met on or before December 31, 2021:

9 (1) There is a fully executed interconnection agreement between the entity
10 proposing the development of the distributed generation resource and the
11 transmission and distribution utility;

12 (2) The entity proposing the development of the distributed generation resource
13 certifies to the commission that the entity has submitted all applicable permit
14 applications to the Department of Environmental Protection and the department
15 has accepted those applications for processing; and

16 (3) The entity proposing the development of the distributed generation resource
17 certifies to the commission that the entity has received all necessary local,
18 nonministerial permits. For purposes of this subparagraph, "nonministerial permit"
19 means a permit for which one or more officials consider various factors and
20 exercise discretion in deciding whether to issue or deny the permit.

21 An amendment, revision or reissuance of an agreement under this paragraph that occurs
22 after December 31, 2021 may not be interpreted to affect the date on which the
23 agreement was initially executed.

24 E. In order for a distributed generation resource to be used for net energy billing, the
25 following must be met on or before December 31, 2024:

26 (1) The proposed distributed generation resource must reach commercial operation
27 by the date specified in the net energy billing agreement or by the date specified
28 with an allowable modification to that agreement.

29 An entity proposing the development of a distributed generation resource that does not
30 meet one or more of the requirements of this subsection may petition the commission for a
31 good cause exemption due to external delays outside of the entity's control, which the
32 commission may grant if it finds that, without the external delays, the entity could
33 reasonably have been expected to meet the requirements.

34 The goal for development of commercially operational distributed generation resources
35 under this subsection and section 3209-B, subsection 7 is 750 total megawatts.

36 **8. Unused kilowatt-hour credits; rules.** To the extent rules adopted under this
37 section provide for the periodic expiration of unused kilowatt-hour credits accumulated by
38 a customer participating in a net energy billing arrangement, the commission shall require
39 by rule that each transmission and distribution utility with a net energy billing arrangement
40 shall account for and, on or before January 1st of each year, remit the value of all unused
41 kilowatt-hour credits that were accumulated and that expired during the prior calendar year
42 to the commission for the benefit of individuals receiving low-income assistance in

1 accordance with section 3214, subsection 2. The rules adopted by the commission pursuant
2 to this subsection must:

3 A. Establish the manner by which a transmission and distribution utility must account
4 for unused kilowatt-hour credits that were accumulated by all customers of the utility
5 with net energy billing arrangements during the prior calendar year and that expired
6 during the prior calendar year; and

7 B. Establish the manner by which a transmission and distribution utility must remit
8 the value of the unused and expired kilowatt-hour credits.

9 Notwithstanding any provision of this section to the contrary, rules adopted by the
10 commission pursuant to this subsection are routine technical rules as defined in Title 5,
11 chapter 375, subchapter 2-A.

12 ~~9. **Applicability to projects between one megawatt and 2 megawatts.** A distributed~~
13 ~~generation resource with a nameplate capacity of at least one megawatt and not more than~~
14 ~~2 megawatts may be used for net energy billing under this section only if the requirements~~
15 ~~of paragraph A are met.~~

16 ~~A. On or before December 31, 2024, the proposed distributed generation resource must~~
17 ~~reach commercial operation by the date specified in the net energy billing agreement~~
18 ~~or by the date specified with an allowable modification to that agreement.~~

19 ~~An entity proposing the development of a distributed generation resource that does not~~
20 ~~meet the requirement of this subsection may petition the commission for a good cause~~
21 ~~exemption due to external delays outside of the entity's control, which the commission may~~
22 ~~grant if it finds that without the external delays the entity could reasonably have been~~
23 ~~expected to meet the requirement.~~

24 **Sec. 3. 35-A MRSA §3209-B**, as amended by PL 2023, c. 411, §§3 and 4, is further
25 amended to read:

26 **§3209-B. Commercial and institutional net energy billing**

27 The commission shall establish by rule, in accordance with this section, a net energy
28 billing program for commercial and institutional customers of investor-owned utilities.

29 **1. Definitions.** As used in this section, the following terms have the following
30 meanings.

31 A. ~~"Commercial and institutional net energy billing program" or "program"~~ "Program"
32 means the net energy billing program established pursuant to this section.

33 B. "Commercial or institutional customer" or "customer" means a nonresidential
34 customer of an investor-owned transmission and distribution utility in the State.

35 C. "Distributed generation resource" has the same meaning as in section 3209-A,
36 subsection 1, paragraph B.

37 D. "Net energy billing" means the system of bill credits available under the program
38 as described in subsection 5.

39 **2. Financial interest.** The program must allow a commercial or institutional customer
40 to participate in the program if the customer has a financial interest in a distributed
41 generation resource, ~~including facility ownership, a lease agreement or a power purchase~~
42 ~~agreement.~~

1 **3. System size.** The nameplate capacity of a distributed generation resource that may
2 be used for net energy billing under this section must be less than 5 megawatts.

3 ~~**4. Shared financial interest; limitation.** Multiple commercial or institutional~~
4 ~~customers that have distinct billing accounts with an investor-owned transmission and~~
5 ~~distribution utility may share a financial interest in a distributed generation resource under~~
6 ~~subsection 2. Any number of commercial or institutional customers may participate in net~~
7 ~~energy billing with a shared interest in a distributed generation resource, except that the~~
8 ~~number of customers or meters is limited to 10 for a shared interest in a distributed~~
9 ~~generation resource located in the service territory of an investor-owned transmission and~~
10 ~~distribution utility located in an area administered by the independent system administrator~~
11 ~~for northern Maine or any successor of the independent system administrator for northern~~
12 ~~Maine unless the commission determines that the utility's billing system can accommodate~~
13 ~~more than 10 accounts or meters for the purpose of net energy billing.~~

14 **5. Tariff rate; bill credits.** The commission shall establish by rule tariff rates for
15 customers participating in the program. The initial tariff rate must be established no later
16 than December 1, 2019.

17 A. The tariff rate for a customer participating in net energy billing with a distributed
18 generation resource ~~described in this paragraph~~ with a nameplate capacity of one
19 megawatt or less must equal the standard-offer service rate established under section
20 3212 that is applicable to the customer receiving the credit plus 75% of the effective
21 transmission and distribution rate for the rate class that includes the smallest
22 commercial customers of the investor-owned transmission and distribution utility. ~~The~~
23 ~~tariff rate under this paragraph applies to net energy billing with a distributed~~
24 ~~generation resource:~~

25 (1) ~~With a nameplate capacity of greater than one megawatt if:~~

26 ~~(a) The entity developing the distributed generation resource certifies by~~
27 ~~affidavit with accompanying documentation to the commission that the entity,~~
28 ~~before September 1, 2022, commenced on-site physical work of a significant~~
29 ~~nature on the distributed generation resource and the entity has made and will~~
30 ~~continue to make continuous on-site construction efforts to advance toward~~
31 ~~completion of the distributed generation resource. For the purpose of this~~
32 ~~paragraph, continuous on-site construction efforts include, but are not limited~~
33 ~~to, in the context of a solar facility, the continuous installation of racks or other~~
34 ~~structures to affix photovoltaic panels, collectors or solar cells to a site. The~~
35 ~~commission may share information contained in the affidavit submitted in~~
36 ~~accordance with this paragraph with a transmission and distribution utility, as~~
37 ~~necessary, to verify a distributed generation resource's compliance with this~~
38 ~~section. In administering this subsection, the commission may adopt rules~~
39 ~~including, but not limited to, requiring the entity that submits a sworn affidavit~~
40 ~~under this subparagraph to provide updated documentation to the commission~~
41 ~~after submission of the affidavit; or~~

42 ~~(b) The distributed generation resource is collocated with a net energy billing~~
43 ~~customer that is or net energy billing customers that are subscribed to at least~~
44 ~~50% of the facility's output; or~~

45 (2) ~~With a nameplate capacity of one megawatt or less.~~

1 A-1. The tariff rate for a customer participating in net energy billing under this section
2 with a distributed generation resource not governed by paragraph A must:

3 (1) In 2022, equal the standard-offer service rate established pursuant to section
4 3212 that was applicable to the rate class of the customer receiving the credit on
5 December 31, 2020 plus 75% of the effective transmission and distribution rate
6 that was in effect on December 31, 2020 for the rate class that includes the smallest
7 commercial customers of the investor-owned transmission and distribution utility;
8 and

9 (2) Increase by 2.25% on January 1st of each subsequent year, beginning January
10 1, 2023.

11 B. A customer participating in the program must receive for electricity delivered to
12 the electric grid from a distributed generation resource in which the customer has a
13 financial interest a bill credit based on the tariff rate to apply against the costs of
14 electricity delivered to the customer by the investor-owned transmission and
15 distribution utility.

16 C. A bill credit under the program as described in paragraph B may be applied to any
17 portion of a customer's electricity bill. Credits that remain unused at the end of any
18 billing period may be carried forward for up to one year from the end of that billing
19 period.

20 D. A customer participating in the program who remains eligible to participate in the
21 program must be allowed to receive a bill credit based on the tariff rate for a period of
22 no less than 20 years from the date of first receiving the credit.

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

26 ~~7. **Applicability.** The applicability of this section is limited by the requirements of~~
27 ~~section 3209-A, subsection 7 and subsection 9.~~

28 ~~8. **Limitation.** After December 31, 2023, a distributed generation resource may be~~
29 ~~used for net energy billing under this section only if the distributed generation resource is~~
30 ~~collocated with all of the distributed generation resource's net energy billing customers and~~
31 ~~those customers are subscribed to 100% of the facility's output under this section. This~~
32 ~~limitation does not apply to a distributed generation resource with a net energy billing~~
33 ~~agreement that was executed on or before December 31, 2023. An amendment, revision or~~
34 ~~reissuance of an agreement under this subsection that occurs after December 31, 2023 may~~
35 ~~not be interpreted to affect the date on which the agreement was initially executed.~~

36 **Sec. 4. 35-A MRSA §3209-C, sub-§1, ¶C,** as enacted by PL 2023, c. 411, §5, is
37 amended to read:

38 C. "Net energy billing costs" means all legitimate and verifiable costs incurred by a
39 transmission and distribution utility directly attributable to net energy billing. "Net
40 energy billing costs" does not include any costs incurred by a project sponsor as defined
41 in section 3209-A, subsection 1, paragraph D, a net energy billing customer or any
42 other entity, as determined by the commission by rule.

1 generation resource must be allocated to the retail account of that customer. The bill also
2 amends other statutes to reflect the changes made to the net energy billing programs by this
3 bill.