



Legislative Committee Meeting Meeting

November 5, 2018
State of Maine Room

AGENDA

I. Call to Order

II. Approval of Minutes

- a. Approval of October 10, 2018 Minutes
- b. Approval of October 30, 2018 Minutes

III. New Business

- a. Presentation of City Legislative Priorities
 - GA Gap Coverage for Asylum Seekers
 - Solar Power
 - Stretch Energy Code
 - Zoning Legislation Change
 - Subdivision Change
 - Amend Definition of Eligible Business Equipment for BETE program
- b. Review of Legislative Committee Flow Chart
- c. Review of Perennial Legislative Issues

IV. Adjournment

**CITY OF PORTLAND
LEGISLATIVE COMMITTEE
OCTOBER 30, 2018 MEETING MINUTES**

October 30, 2018 Meeting was called to order by Chair Pious Ali at 10:04 a.m. in Room 209, Portland City Hall, Myrtle Street, Portland, Maine

A. Attendance/Introductions:

Councilor Pious Ali, Chair, Councilor Jill Duson, Councilor Kim Cook, Michael Sauschuck, Portland Board of Education Member Roberto Rodriguez, Portland School Superintendent Xavier Botana, Alysia Melnick, Esq., BernsteinShur team/lobbyist, and Isabel Mullin, Esq., BersteinShur team/lobbyist.

B. October 10, 2018 Minutes

Councilor Cook said she would like changes to the minutes to reflect the bill submission process. Councilor Duson said the minutes should provide a description of bill review by the Committee. The Committee agreed that this should be done following a discussion between Mike Sauschuck and Mike Murray. The revised minutes will be voted on at the next meeting on November

C. Alysia Melnick, Esq., BernsteinShur team/lobbyist, and Isabel Mullin, Esq., BersteinShur team/lobbyist.

Attorney Melnick said she would email the list of perennial legislative topics, which include Revenue Sharing, Local Option Sales Tax, increased state funding for education to 55%, needle exchange support, General Assistance for asylum seekers, affordable housing and more (see attached list).

Councilor Cook asked that City Staff finalize recommendations by November 5 and present its own list of legislative priorities at that meeting for Committee approval.

Attorney Melnick said bill titles are needed before December 17, when the City Council would have a list to approve for its support on its agenda.

Councilor Duson asked that a list of priorities be created to streamline the tracking list the lobbyist group assemblies (see attached).

Superintendent discussed changes to the Essential Programs and Services (EPS) formula, and requested support for legislation for school facilities funding, construction funding and security costs.

The Arts and Technical High School is a regional School, and tuition was previously billed for students from outside of Portland. A change to the EPS has ended that, and in the future it is not clear that the City will fare under the change in the future.

Attorney Melnick said her team would be benefitted by hearing the City's response to changes that are particular to the City and thus different from statewide issues supported by the Maine Municipal Association. The City may have legislation in mind for recreational marijuana businesses, for example. Communities that host marijuana businesses will receive a percentage of the Excise tax in one bill, she said.

Councilor Duseon requested a ranking system, and Attorney Melnick said she would send it. (It is attached.)

C. Next meeting will be November 5, 2018

Chair Pious Ali adjourned the meeting at 10:55 a.m.

Proposal for Statewide GA GAP coverage for Asylum seekers

This legislative change would be addressed in the Current GA Statute under sub section 4301 #3: the definition of an "eligible person". (highlighted below) There are currently two periods of eligibility for asylum seekers arriving on a visitor visa. The first eligibility period is defined as when they arrive in country their visa is stamped with an I-94 designation which indicated the duration of stay for which they are considered "lawfully present". This period has typically been 6 months but lately we have seen that period reduced to two or three months. The second eligibility period is when they are "pursuing a lawful process to apply for immigration relief". That period is defined as being from the time the individual gets proof of receipt of the asylum application being received by the Federal Government (I-94 form) and allows that person 24 months of assistance from that date.

The problem is that there is almost always a period of time between the end of the "Lawfully Present" eligibility period and the beginning of the "Pursuing a lawful process to apply for immigration relief" This "Gap" in coverage period is problem that this legislative change would address. This GAP period would cause someone who might be housed by GA assistance "Lawfully Present" to fall out of GA eligibility and lose their housing when that designation ends until they once again become GA eligible when the second period of eligibility begins "Pursuing a lawful process to apply for immigration relief"

Portland has designated funding for this GAP period called the "Portland Community Support Fund" This fund is administered exactly like a GA benefit except it is funded with City of Portland General fund dollars. Without assistance during the GAP period asylum seekers would lose the resources necessary to continue to cover the basic necessities, rent, utilities food etc. They would lose their housing and have to access the homeless shelter system. Because Portland is the only municipality to offer this Gap coverage most asylum seekers have no other choice than to settle in Portland during the asylum application period which can last for years. The City budgets approximately \$200k annually to cover the cost of this program.

With the labor shortage affecting the entire state especially our heavy tourist visited areas, it would be a great benefit to have the GA program offer a "GAP" coverage statewide. The result being that asylum seekers could seek to reside in any municipality in the state and not fall out of GA eligibility because they fell into the GAP period. Once they receive their work authorization they could join the workforce in any area of the State and be a benefit to those municipalities where businesses are hungry for a talented willing workforce. With the current shortfall in affordable housing and the current cost of housing in the Portland area it is becoming increasingly difficult to find housing for the asylum seeking population in and around Portland.

§4301. Definitions

1. As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 577, §1 (NEW) .]
2. **1. Basic necessities.** "Basic necessities" means food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons and any other commodity or service determined essential by the overseer in accordance with the municipality's ordinance and this chapter. "Basic necessities" do not include security deposits for rental property, except for emergency purposes. For the purposes of this subsection, "emergency purposes" means any situation in which no other permanent lodging is available unless a security deposit is paid.
3. [1991, c. 9, Pt. U, §1 (AMD) .]
4. **1-A. Direct costs.** "Direct costs" means the total value of general assistance benefits paid out by a municipality that is in compliance with this chapter and the municipality's general assistance ordinance.
5. [1991, c. 9, Pt. U, §2 (NEW) .]
6. **2. Dwelling unit.** "Dwelling unit" means a building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit.
7. [1983, c. 577, §1 (NEW) .]
8. **3. Eligible person.** "Eligible person" means a person who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance. "Eligible person" does not include a person who is a fugitive from justice as defined in Title 15, section 201, subsection 4. Beginning July 1, 2015, in accordance with 8 United States Code, Section 1621(d), "eligible person" means a person who is lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief, except that assistance for such a person may not exceed 24 months.



Executive Department
Jon P. Jennings, City Manager

To: Jon Jennings, City Manager
From: Troy Moon, Sustainability Coordinator
RE: Legislative Ideas for the upcoming session
Date: October 31, 2018

As requested, here are some thoughts regarding sustainability related issues the City may wish to pursue in the upcoming legislative session.

Solar

LD 1649 from the 127th Legislature (2016) contained several elements that, if enacted, would greatly enhance the development of medium sized solar projects of the sort that a municipality or a community based group would build. In the following session LD 1444 (2017) introduced key elements of LD 1649 as a stand alone bill. Several aspects of these proposals would have benefited municipal and community solar projects:

- They created a category of large scale community solar, which would allow a municipality the ability to build facilities large enough to benefit from some economy of scale. LD 1649 did not specify a size limit while LD 1444 set the cap at 5 MW, which is adequate for our purposes. Current regulations that rely on net metering set the cap at 1 MW.
- They set up a process to compensate municipal and community solar project owners or subscribers in cash rather than per kWh credits. This is important for entities that pay demand charges -- like the City of Portland. Under net metering, solar or other distributed generation projects, receive a per kWh credit for electricity and for distribution. A significant portion of the electric bill for a large building comes from demand charges, which are not recovered through net metering. Receiving monetary credit rather than kWh credits would be beneficial because it could be applied toward demand charges.
- They allowed more offtakers to participate in community solar projects. Under current rules that rely on net metering only 9 individuals may join together to create a jointly owned community solar project, which leads to small projects that don't benefit from an economy of scale. LD 1649 did not specify a number of possible participants but set a floor of 1 kW per participant.

- They created targets for renewable energy procurement in statute to promote the development of new facilities and established a market based process to select projects and to compensate the successful developers in monetary credits rather than kWh credits.

It would be beneficial to revisit similar legislation in the upcoming session. I anticipate environmental groups and Maine based solar installers will be introducing bills around net metering that we will want to review and discuss further.

I've attached copies of LD 1649 and LD 1444 for reference.

Stretch Energy Code

I would recommend pursuing a bill that would allow municipalities to adopt a stretch energy code to improve the performance of new building construction. The energy code currently in use is way out of date. (For residential construction it uses 2009 standards, for commercial buildings it ASHRAE 2007) This leads to buildings that burden their future occupants with higher than necessary energy costs and increases carbon emissions that could be avoided through better construction and/or better mechanical systems. Vermont and Massachusetts are New England states that allow cities to have stretch codes.



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1444

S.P. 499

In Senate, April 13, 2017

An Act Regarding Large-scale Community Solar Procurement

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator WOODSOME of York.

Cosponsored by Representative HARVELL of Farmington, Representative BERRY of Bowdoinham and

Senators: DION of Cumberland, SAVIELLO of Franklin, Representatives: GROHMAN of Biddeford, HARRINGTON of Sanford, HIGGINS of Dover-Foxcroft, SAMPSON of Alfred, SANBORN of Portland.

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

2 **Sec. 1. 35-A MRSA §3471-A** is enacted to read:

3 **§3471-A. Definitions**

4 As used in this chapter, unless the context otherwise indicates, the following terms
5 have the following meanings.

6 **1. Credit rate.** "Credit rate" means the per kilowatt-hour rate used to calculate the
7 monetary value of a subscriber's share of the output of a large-scale community solar
8 distributed generation resource. The credit rate is equal to the per kilowatt-hour rate in
9 the long-term contracts entered into between the standard buyer and the project sponsor
10 pursuant to this chapter and must be the same for all subscribers of the large-scale
11 community solar distributed generation resource.

12 **2. Distributed generation resource.** "Distributed generation resource" means an
13 electric generating facility that uses a renewable fuel or technology as specified in section
14 3210, subsection 2, paragraph B-3 or is a microcombined heat and power system located
15 in the service territory of a transmission and distribution utility.

16 **3. Kilowatt.** "Kilowatt" means 1,000 watts, measured in direct current.

17 **4. Large-scale community solar distributed generation resource.** "Large-scale
18 community solar distributed generation resource" means a solar distributed generation
19 resource with a nameplate capacity of up to 5 megawatts, or other limit as determined by
20 commission rule under section 3476, subsection 8, that is selected in a procurement in
21 accordance with section 3476 and the beneficial use of the output of that solar distributed
22 generation resource is owned by or allocated to subscribers.

23 **5. Megawatt.** "Megawatt" means 1,000,000 watts, measured in direct current.

24 **6. Microcombined heat and power system.** "Microcombined heat and power
25 system" means a system that produces heat and electricity in a manner as defined by
26 commission rule.

27 **7. Output.** "Output" means energy, capacity, renewable energy certificates and all
28 other environmental attributes and market products that are available or may become
29 available from a distributed generation resource.

30 **8. Project sponsor.** "Project sponsor" means an entity, its successor or its assignee
31 that owns or operates a large-scale community solar distributed generation resource.

32 **9. Standard solar rate.** "Standard solar rate" means the highest awarded bid rate for
33 a long-term contract during the initial procurement for solar distributed generation
34 resources under section 3476, subsection 2.

35 **10. Subscriber.** "Subscriber" means a retail customer of a transmission and
36 distribution utility who owns or has the right to a subscription and who has identified an
37 account to which the subscription is attributed.

1 **11. Subscription.** "Subscription" means a proportional interest in a large-scale
2 community solar distributed generation resource. Each subscription must be sized to
3 represent at least one kilowatt of the resource's generating capacity, and the total expected
4 annual value of all of a customer's subscriptions may not exceed 120% of the customer's
5 most recent annual electricity bill.

6 **Sec. 2. 35-A MRSA §3473, sub-§§3 and 4** are enacted to read:

7 **3. Participation in wholesale markets.** The commission and investor-owned
8 transmission and distribution utilities shall take all reasonable steps to promote the
9 participation of distributed generation resources in the wholesale electricity market,
10 capacity market and ancillary service market.

11 **4. Change in tax treatment.** If a change in federal tax laws, rules or policy
12 materially modifies the burdens or costs to customers or utilities associated with the
13 procurement under this chapter, the commission shall issue a report to the joint standing
14 committee of the Legislature having jurisdiction over energy and utilities matters
15 describing the impact of these changes and recommending any actions necessary to
16 maintain the benefits of the procurements under this chapter.

17 **Sec. 3. 35-A MRSA §§3475 to 3477** are enacted to read:

18 **§3475. Standard buyer**

19 The standard buyer designated pursuant to this section must aggregate the output of
20 the portfolio of distributed generation resources procured pursuant to this chapter and sell
21 or use the output of these resources in a manner that maximizes the value of this portfolio
22 of resources to all ratepayers.

23 **1. Designation of standard buyer.** Each investor-owned transmission and
24 distribution utility serves as the standard buyer in its service territory, except that the
25 commission may designate another entity to serve as standard buyer if the commission
26 determines that such a designation is in the best interest of ratepayers. The standard
27 buyer is subject to the jurisdiction of the commission.

28 **2. Obligations of the standard buyer.** The standard buyer designated pursuant to
29 subsection 1 shall:

30 A. Serve as counterparty to and enforce long-term contracts with project sponsors
31 pursuant to section 3476;

32 B. Reimburse, when the standard buyer is not an investor-owned transmission and
33 distribution utility, the investor-owned transmission and distribution utility for any
34 bill credit or payment to a subscriber or project sponsor pursuant to section 3476;

35 C. Establish reasonable metering and measurement and verification requirements for
36 distributed generation resources;

37 D. Provide information needed to allocate eligible costs and benefits pursuant to
38 subsection 3; and

1 E. Provide to the commission aggregate data regarding the output of distributed
2 generation resources.

3 **3. Standard buyer cost allocation.** The commission and each standard buyer
4 designated pursuant to subsection 1 shall implement a transparent mechanism to track and
5 recover or distribute the eligible costs and benefits from procuring distributed generation
6 resources pursuant to this chapter. These eligible costs and benefits must be reviewed by
7 the commission annually and allocated to and recovered from ratepayers of the
8 transmission and distribution utility in whose territory the distributed generation resource
9 is located through a process established by the commission by rule. The process
10 developed by the commission must be similar to the allocation of costs and benefits of
11 long-term energy contracts in section 3210-F. Eligible costs and benefits include:

12 A. Incremental costs of serving as the standard buyer;

13 B. All payments to customers, subscribers and project sponsors under each
14 procurement pursuant to section 3476; and

15 C. All revenue from sale of the output of distributed generation resources procured
16 pursuant to this chapter.

17 Customers receiving service at a transmission or subtransmission voltage level as defined
18 in section 10110, subsection 6 are excluded from paying any costs or receiving benefits
19 associated with the procurement of distributed generation resources pursuant to this
20 chapter.

21 **4. Rules.** The commission shall adopt rules to implement this section. Rules
22 adopted under this subsection are routine technical rules as defined in Title 5, chapter
23 375, subchapter 2-A. The commission shall ensure that the rules and procedures
24 established under this chapter provide opportunities for entities other than the standard
25 buyer to aggregate and sell the output of distributed generation resources in the applicable
26 markets.

27 **§3476. Large-scale community solar procurement**

28 **1. Procurement goal.** The commission shall procure 120 megawatts of large-scale
29 community solar distributed generation resources by January 1, 2022. In order to
30 accomplish this goal, the commission shall conduct annual competitive solicitations, each
31 for 30 megawatts of large-scale community solar distributed generation resources.

32 **2. Initial procurement.** On or before March 1, 2018, the commission shall conduct
33 a competitive solicitation for an initial procurement of long-term contracts for the output
34 of at least 30 megawatts of large-scale community solar distributed generation resources
35 as part of the procurement goal in subsection 1. Bids must be accepted for 120 calendar
36 days and reviewed based on the requirements set forth in subsections 7, 8 and 9. The
37 highest awarded bid rate must be established as the standard solar rate for all awarded
38 bids in the initial procurement. If there is more than one bid at that rate, preference will
39 be given to the project that was submitted first, as determined by the time stamp showing
40 when the bid was received by the commission. The commission shall select and notify
41 successful bidders no later than 30 calendar days after the bid acceptance period has
42 ended.

1 **3. Declining block contract rate.** For each subsequent procurement for long-term
2 contracts for the output of 30 megawatts of large-scale community solar distributed
3 generation resources after the initial procurement in subsection 2, the commission shall
4 establish a declining block contract rate by reducing the rate awarded in the previous
5 procurement by no more than 3%.

6 **4. Subsequent procurements.** To ensure competition for procurements after the
7 initial procurement under subsection 2 for the output of 30 megawatts of large-scale
8 community solar distributed generation resources, the following standards apply:

9 A. Each procurement after the initial procurement must be open for 120 calendar
10 days;

11 B. In addition to a bidder's standard bid rate, a bidder must also provide a discounted
12 bid rate;

13 C. After the 120 calendar-day bid acceptance period ends, the commission shall
14 review bids in accordance with subsections 7, 8 and 9;

15 D. If the total bids received in the aggregate is for less than 30 megawatts, contracts
16 must be awarded to all bidders at the applicable declining block contract rate;

17 E. If the total bids received in the aggregate is for more than 30 megawatts,
18 preference will be given to those bidders with the lowest discounted bid rate and
19 contracts must be awarded to all selected bidders at the lowest qualified discounted
20 bid rate;

21 F. If there are multiple bids at the same discounted bid rate, preference will be given
22 to the project that was submitted first, as determined by the time stamp showing when
23 the bid was received by the commission; and

24 G. The commission shall select and notify successful bidders no later than 30
25 calendar days after the bid acceptance period has ended.

26 **5. Qualification for capacity allocation.** The commission shall set standards for
27 qualifications under the declining block contract rate. All qualified projects must
28 complete construction within 2 years of being awarded a contract. The commission may
29 by rule charge a capacity reservation fee to defray administrative costs.

30 **6. Standard contract.** Prior to a solicitation, the commission shall develop, in
31 consultation with the standard buyer, a standard contract that commits all parties to
32 commercially reasonable behavior and includes provisions to ensure that projects proceed
33 to commercial operation on a reasonable timeline.

34 **7. Bidder eligibility.** The commission shall establish minimum requirements for
35 bidders in a solicitation under this section, including, but not limited to, site control,
36 development experience, completion of an interconnection application and provision of
37 system details. Bidders must demonstrate development experience through relevant
38 experience and expertise in successfully developing, financing, constructing, operating
39 and maintaining a large-scale solar project and fulfilling its obligation to participating
40 subscribers. The commission may by rule require bidders to pay a bidding fee to defray
41 administrative costs.

1 **8. Ensuring competition.** The commission shall establish standards to ensure that
2 each solicitation under this section has a sufficient number of unique bidders and quantity
3 of offered capacity to be competitive. If the commission concludes based on these
4 standards that a solicitation is not competitive, no bidders may be selected and the
5 capacity available in that solicitation must be deferred to a subsequent solicitation. The
6 commission may by rule adjust the maximum project size eligible for a solicitation to
7 ensure that there is more than one bid selected.

8 **9. Bid selection.** Following review of bids in a solicitation under this section, if the
9 commission determines that the solicitation is competitive pursuant to subsection 8, the
10 commission shall select one or more winning bidders and direct the standard buyer to
11 negotiate and enter into a contract with the winning bidder or bidders for a term of 20
12 years at a specified contract rate. The commission shall select bids that maximize
13 benefits or minimize costs to all ratepayers.

14 **10. Payment and minimum subscription.** The project sponsor and subscribers
15 must receive the contract rate for the output of a large-scale community solar distributed
16 generation resource that is fully subscribed. For any portion not subscribed, the project
17 sponsor receives the wholesale rate.

18 At least 50% of the subscriptions to a large-scale community solar distributed generation
19 resource must be for 25 kilowatts or less, unless a municipality accounts for more than
20 50% of the subscriptions to a large-scale community solar distributed generation
21 resource. A municipality may not account for more than 70% of the subscriptions to a
22 large-scale community solar distributed generation resource.

23 **11. Determination of subscriber bill credit.** The bill credit to be allocated to each
24 subscriber to a particular large-scale community solar distributed generation resource
25 must be based on each subscriber's percentage interest of the total production of the
26 large-scale community solar distributed generation resource for the previous month.
27 Each billing month, the value of the credits allocated to each subscriber must be
28 calculated by multiplying the number of kilowatt-hours equal to each subscriber's share
29 by the credit rate. On a monthly basis, the project sponsor shall provide to the
30 transmission and distribution utility in a standardized and electronic format the
31 information required to calculate the bill credit to be provided to each subscriber. Credits
32 to a subscriber must be applied against the subscriber's monthly electricity bill in
33 accordance with section 3477. The transmission and distribution utility shall provide a
34 record to the project sponsor of the credits applied to the transmission and distribution
35 utility's associated subscribers each month after those credits are applied to the
36 subscriber's bill.

37 The monthly output available for allocation as subscribed or unsubscribed energy must be
38 determined by a revenue-grade meter installed and paid for by the project sponsor.

39 **12. Exemption.** A project sponsor or subscriber is not considered a public utility or
40 competitive electricity supplier solely as a result of the project sponsor's or subscriber's
41 interest or participation in a large-scale community solar distributed generation resource.

42 **13. Renewable energy credits.** The commission shall develop a standard disclosure
43 to be provided by the project sponsor to all participating subscribers prior to their entering

1 into a contract under this section that describes the effect of selling the renewable
2 attributes of exported electricity to the standard buyer and explains how a subscriber may
3 participate in the voluntary renewable energy credit market.

4 **14. Consumer protection.** The commission shall establish by rule consumer
5 protection standards to protect subscribers from fraud and other unfair and deceptive
6 business practices. The commission may impose administrative penalties upon a project
7 sponsor in accordance with chapter 15 and may order restitution for any party injured by
8 a violation for which a penalty may be assessed pursuant to chapter 15.

9 The commission through its own counsel or through the Attorney General may apply to
10 the Superior Court of any county of the State to enforce any lawful order made or action
11 taken by the commission pursuant to this subsection. The court may issue such orders,
12 preliminary or final, as it considers proper under the facts established before it.

13 **15. Disclosures.** A project sponsor selling or reselling a subscription in a large-scale
14 community solar distributed generation resource or proposed large-scale community solar
15 distributed generation resource shall provide a disclosure to potential subscribers that
16 includes the following prior to the sale or resale of that subscription:

17 A. A good faith estimate of the annual kilowatt-hours to be delivered by the large-
18 scale community solar distributed generation resource based on the size of the
19 subscriber's interest;

20 B. A plain language explanation of the terms under which the bill credits under
21 section 3477 will be calculated;

22 C. A plain language explanation of the contract provisions regulating the disposition
23 or transfer of the subscription; and

24 D. A plain language explanation of the costs and benefits to the potential subscriber,
25 based on the subscriber's current usage and applicable tariff, for the term of the
26 proposed contract.

27 The commission may establish a standard disclosure to be provided to potential
28 subscribers by a project sponsor to disclose this information or such other information as
29 the commission may determine necessary to protect the interests of potential subscribers.

30 **16. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to
31 the associated project sponsor or to any person or entity who qualifies to be a subscriber
32 in the large-scale community solar distributed generation resource. A project sponsor
33 must provide a process for assignment or transfer of a subscription. A project sponsor
34 may not impose transfer fees on a subscriber who moves to a different location within the
35 same utility service territory.

36 **17. Project sponsor report.** One year after commercial operation of a large-scale
37 community solar distributed generation resource commences, the project sponsor must
38 submit to the commission a report detailing what percentage of subscribers earn less than
39 the State's median income.

1 **18. Rules.** The commission shall adopt rules to implement this section. Rules
2 adopted under this subsection are routine technical rules as defined in Title 5, chapter
3 375, subchapter 2-A.

4 **§3477. Bill credits**

5 This section applies to any credits assigned to a customer's bill under this chapter.

6 If the value of the credit to be applied to a customer's bill is less than the amount
7 owed by the customer at the end of the applicable billing period, the customer must be
8 billed for the difference between the amount shown on the bill and the value of the
9 available credits.

10 If the value of the credits to be applied to a customer's bill is greater than the amount
11 owed by the customer at the end of the billing period, the remaining value of the credit
12 must carry over from month to month until a specified date each year. The commission
13 shall establish a minimum of 2 standard credit expiration dates that provide customers the
14 opportunity to use bill credits to the maximum extent practicable in a given 12-month
15 period. Any remaining credits as of that date must be credited to the standard buyer and
16 may not be applied against any future customer bill.

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

19 **Sec. 4. Rules.** The Public Utilities Commission shall adopt rules to implement the
20 Maine Revised Statutes, Title 35-A, sections 3475 to 3477 by January 1, 2018.

21 **SUMMARY**

22 This bill directs the Public Utilities Commission to enter into long-term contracts
23 with a duration of 20 years for the procurement of 120 megawatts of large-scale
24 community solar distributed generation resources by 2022.

25 The bill designates a standard buyer, which the bill specifies is the investor-owned
26 transmission and distribution utility in its service territory. The bill allows the
27 commission to designate another entity as the standard buyer if the commission
28 determines it is in the best interest of ratepayers to do so. The purpose of the standard
29 buyer is to purchase the output of large-scale community solar distributed generation
30 resources, aggregate the portfolio of distributed generation resources procured and sell or
31 use the output of these resources in a manner that maximizes the value of this portfolio of
32 resources to all ratepayers.

33 The bill directs the commission to conduct an initial competitive solicitation for 30
34 megawatts of output of large-scale community solar distributed generation by March 1,
35 2018. The bill directs the commission and standard buyer to develop a contract prior to a
36 solicitation that will ensure that projects proceed to commercial operation on a reasonable
37 timeline and commits all parties to commercially reasonable behavior.

1 The bill gives the commission authority to establish requirements for bidder
2 eligibility and standards to ensure competition in the bidding process. The bill also
3 specifies that if the solicitation is determined competitive the commission must select one
4 or more winning bids and direct the standard buyer to negotiate and enter into a contract
5 with the winning bidder or bidders. If the commission concludes the solicitation is not
6 competitive, no bidders may be selected and the capacity available in that solicitation
7 must be deferred to a subsequent solicitation. The bill requires the commission to select
8 bids that maximize the benefits or minimize the costs to all ratepayers.

9 The bill requires after the first solicitation that the highest bid rate awarded a contract
10 is the standard solar rate. For each subsequent procurement for 30 megawatts of
11 large-scale community solar distributed generation resources, the commission must
12 establish a declining block rate by reducing the rate awarded in the previous procurement
13 by up to 3%. Bidders in subsequent procurement must submit both a standard bid rate
14 and a discounted bid rate. The bill specifies that if the total bids received in the aggregate
15 is for less than 30 megawatts in subsequent solicitations, contracts will be awarded to all
16 bidders at the applicable declining block rate; however, if the total bids received in the
17 aggregate is for more than 30 megawatts, preference will be given to those bidders with
18 the lowest discounted bid rate and contracts must be awarded to all selected bidders at the
19 lowest qualified discounted bid rate. The bill requires that if there are multiple bids at the
20 same discounted bid rate, preference will be given to the project that was submitted first,
21 as determined by the time stamp showing when the bid was received by the commission.

22 The bill specifies that the bill credit allocated to a subscriber to a particular large-
23 scale community solar distributed generation resource must be based on each subscriber's
24 percentage interest of the total production of the large-scale community solar distributed
25 generation resource for the previous month. The bill requires the project sponsor to
26 provide to the transmission and distribution utility, on a monthly basis, the information
27 required to calculate the bill credit to be provided to each subscriber. The bill includes
28 provisions on how payments to a subscriber must be credited against the subscriber's
29 monthly electricity bill.

30 The bill requires the Public Utilities Commission to adopt routine technical rules
31 regarding the procurement of large-scale community solar distributed generation
32 resources by January 1, 2018.



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1649

H.P. 1120

House of Representatives, March 10, 2016

An Act To Modernize Maine's Solar Power Policy and Encourage Economic Development

Reported by Representative DION of Portland for the Joint Standing Committee on Energy, Utilities and Technology pursuant to Resolve 2015, chapter 37, section 2.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed pursuant to Joint Rule 218.

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

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 35-A MRSA §3210-F, sub-§1**, as enacted by PL 2013, c. 454, §2, is
3 amended to read:

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

6 A. "Eligible costs and benefits" means the net amount of all costs and direct financial
7 benefits associated with long-term energy contracts entered into by investor-owned
8 transmission and distribution utilities, including but not limited to any effects on a
9 utility's cost of capital as a result of these contracts. For distributed generation
10 resources, "eligible costs and benefits" includes the categories set forth in section
11 3476, subsection 3.

12 B. "Long-term energy contract" means a contract with an investor-owned
13 transmission and distribution utility or a standard buyer entered into under section
14 3210-C ~~or~~, section 3604 or chapter 34-B.

15 **Sec. 2. 35-A MRSA §3210-F, sub-§3**, as enacted by PL 2013, c. 454, §2, is
16 amended to read:

17 **3. Allocation of eligible costs and benefits.** The commission shall annually allocate
18 to each investor-owned transmission and distribution utility its pro rata share of eligible
19 costs and benefits as determined under subsection 2. The allocation must be based on
20 each utility's total retail kilowatt-hour energy sales to ratepayers that receive the benefits
21 and pay the costs of long-term energy contracts. The commission may determine the
22 means to be used for the allocation required under this section, which may include the
23 direct transfer of funds between investor-owned transmission and distribution utilities or
24 to or from a standard buyer under chapter 34-B.

25 **Sec. 3. 35-A MRSA §3212-B** is enacted to read:

26 **§3212-B. Solar power options**

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

29 A. "Renewable energy credit" has the same meaning as in section 3210, subsection
30 2, paragraph B-2.

31 B. "Solar power supply" means renewable energy credits for electricity generated
32 from renewable capacity resources as defined in section 3210, subsection 2,
33 paragraph B-3, subparagraph (1), division (c).

34 **2. Solar power offer.** The commission shall arrange for a solar power offer that is
35 composed of solar power supply in accordance with this subsection. Except as provided
36 in this subsection, the commission shall ensure that the solar power offer is available to
37 all residential and small commercial electricity customers, as defined by the commission
38 by rule, and shall administer a competitive bid process to select a solar power offer
39 provider or providers for the service territory of a transmission and distribution utility.

1 A. The solar power offer must be in addition to existing standard-offer service under
2 section 3212.

3 B. The commission shall, in accordance with section 3210, subsection 7, inform
4 residential and small commercial consumers of electricity in this State of the
5 opportunity to purchase the solar power offer.

6 C. The commission is not required to arrange for a solar power offer in the event that
7 the commission receives no bids to provide the solar power offer in a transmission
8 and distribution utility's territory, determines that the bids it receives are inadequate
9 or unacceptable or determines, based on prior experience arranging for a solar power
10 offer in a utility's territory, that it is reasonably likely that it will not receive any
11 adequate or acceptable bids.

12 D. The commission is not required to arrange for a solar power offer for the territory
13 of a consumer-owned transmission and distribution utility. If the commission
14 arranges standard-offer service for a consumer-owned transmission and distribution
15 utility, the consumer-owned transmission and distribution utility may elect to have
16 the commission arrange a solar power offer in accordance with this subsection. A
17 consumer-owned transmission and distribution utility may establish a solar power
18 offer through a competitive bidding process conducted in accordance with the
19 commission's rules governing the selection of a solar power offer provider under this
20 subsection.

21 The commission shall adopt rules to implement this subsection. Rules adopted under this
22 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

23 **3. Certification; information in bill inserts.** Beginning July 1, 2017, information
24 regarding the availability of the solar power offer and of solar power supply products and
25 renewable energy credit products that are certified by the commission may, at the option
26 of the provider of the offer or the product and with the cooperation of the transmission
27 and distribution utility, be presented through inserts in customer bills issued by
28 transmission and distribution utilities. The costs of the inserts, including but not limited to
29 printing and postage costs, are the responsibility of the provider of the offer or product.
30 The commission may define the criteria for certification of solar power supply products
31 and renewable energy credit products by order or by rule, and the commission may limit
32 the criteria for certification for consumer protection and eligibility verification purposes.

33 **4. Rules.** The commission shall adopt rules to implement this section. Rules
34 adopted under this subsection are routine technical rules as defined in Title 5, chapter
35 375, subchapter 2-A.

36 **5. Repeal.** This section is repealed April 1, 2021.

37 **Sec. 4. 35-A MRSA §3471-A is enacted to read:**

38 **§3471-A. Definitions**

39 As used in this chapter, unless the context otherwise indicates, the following terms
40 have the following meanings.

1 **1. Credit rate.** "Credit rate" means the per kilowatt-hour rate used to calculate the
2 monetary value of a subscriber's share of the output of the large-scale community solar
3 distributed generation resource. The credit is equal to the per kilowatt-hour rate in the
4 long-term contracts entered into between the standard buyer and the project sponsor
5 pursuant to this section and must be the same for all subscribers of a particular large-scale
6 community solar distributed generation resource.

7 **2. Distributed generation resource.** "Distributed generation resource" means an
8 electric generating facility that uses a renewable fuel or technology as specified in section
9 3210, subsection 2, paragraph C or is a micro-combined heat and power system located in
10 the service territory of a transmission and distribution utility.

11 **3. Kilowatt.** "Kilowatt" means 1,000 watts, measured in direct current.

12 **4. Large-scale community solar distributed generation resource.** "Large-scale
13 community solar distributed generation resource" means a solar distributed generation
14 resource with a nameplate capacity of up to 5 megawatts that is selected in a procurement
15 in accordance with this section the beneficial use of the output of the resources of which
16 belongs to the subscribers.

17 **5. Megawatt.** "Megawatt" means 1,000,000 watts, measured in direct current.

18 **6. Micro-combined heat and power system.** "Micro-combined heat and power
19 system" means a system that:

20 A. Produces heat and electricity from one fuel input, without restriction to specific
21 fuel or generating technology;

22 B. Has an electric generating capacity rating of at least one kilowatt and not more
23 than 30 kilowatts and a fuel system efficiency of not less than 80% in the production
24 of heat and electricity or has an electric generating capacity and a fuel system
25 efficiency of not less than 65% in the production of heat and electricity; and

26 C. Is connected to the electric grid and operated in conjunction with the facilities of a
27 transmission and distribution utility.

28 **7. Output.** "Output" means energy, capacity, renewable energy certificates and all
29 other environmental attributes and market products that are available or may become
30 available from a distributed generation resource.

31 **8. Project sponsor.** "Project sponsor" means any entity, its successor or its assignee
32 selected by the commission under section 3478, subsection 4 that owns or operates one or
33 more large-scale community solar distributed generation resources on behalf of
34 subscribers.

35 **9. Subscriber.** "Subscriber" means a retail customer of a transmission and
36 distribution utility who owns a subscription and who has identified an account to which
37 the subscription is attributed.

1 **10. Subscription.** "Subscription" means a proportional interest in a large-scale
2 community solar distributed generation resource. Each subscription must be sized to
3 represent at least one kilowatt of the resource's generating capacity.

4 **Sec. 5. 35-A MRSA §3473, sub-§§3 to 5** are enacted to read:

5 **3. Solar procurements.** The commission shall procure solar distributed generation
6 resources in the grid-scale, large-scale community, commercial and industrial and
7 residential and small business market segments to achieve the targets in section 3475
8 using the procurement methods described in this chapter.

9 **4. Participation in wholesale markets.** The commission and investor-owned
10 transmission and distribution utilities shall take all reasonable steps to promote the
11 participation of distributed generation resources in the wholesale electricity, capacity and
12 ancillary service markets.

13 **5. Change in tax treatment.** If a change in federal tax laws, rules or policy
14 materially modifies the burdens or costs to customers or utilities associated with the
15 procurements under this chapter, the commission shall issue a report to the joint standing
16 committee of the Legislature having jurisdiction over utility matters describing the impact
17 of these changes and recommending any actions necessary to maintain the benefits of the
18 procurements under this chapter.

19 **Sec. 6. 35-A MRSA §§3475 to 3481** are enacted to read:

20 **§3475. Solar procurement targets**

21 **1. Grid-scale.** The procurement target for the grid-scale solar distributed generation
22 resources under section 3477 is 60 megawatts by January 1, 2022.

23 **2. Large-scale community.** The procurement target for the large-scale community
24 solar distributed generation resources under section 3478 is 45 megawatts by January 1,
25 2022.

26 **3. Commercial and industrial.** The procurement target for the commercial and
27 industrial solar distributed generation resources under section 3479 is 25 megawatts by
28 January 1, 2022.

29 **4. Residential and small business.** The procurement targets for the residential and
30 small business solar distributed generation resources under section 3480 are:

31 A. Seven megawatts by January 1, 2018;

32 B. Twenty-one megawatts by January 1, 2019;

33 C. Forty-five megawatts by January 1, 2020;

34 D. Seventy megawatts by January 1, 2021; and

35 E. One hundred eighteen megawatts by January 1, 2022.

1 **§3476. Standard buyer**

2 The standard buyer is designated pursuant to this section to aggregate the output of
3 the portfolio of distributed generation resources procured pursuant to this chapter and sell
4 or use the output of these resources in a manner that maximizes the value of this portfolio
5 of resources to all ratepayers.

6 **1. Designation of standard buyer.** Each investor-owned transmission and
7 distribution utility shall serve as the standard buyer in its service territory, except that the
8 commission may designate another entity to serve as standard buyer if the commission
9 determines that it is in the best interest of ratepayers. The standard buyer is subject to the
10 jurisdiction of the commission.

11 **2. Obligations of the standard buyer.** The standard buyer designated pursuant to
12 subsection 1 shall:

13 A. Serve as counterparty to and enforce long-term contracts with project sponsors
14 and customers for each market segment under this chapter;

15 B. Reimburse investor-owned transmission and distribution utilities for any bill
16 credit or payment to a customer, subscriber or project sponsor pursuant to section
17 3478, 3479 or 3480;

18 C. Establish reasonable metering and measurement and verification requirements for
19 distributed generation resources;

20 D. Provide information needed to allocate costs and benefits pursuant to subsection
21 3;

22 E. Provide aggregate data regarding the output of distributed generation resources to
23 the commission; and

24 F. Make renewable energy credits available for sale to the provider of the green
25 power offer pursuant to section 3212-A.

26 The commission shall ensure that the rules and procedures established under this chapter
27 provide opportunities for entities other than the standard buyer to aggregate and sell the
28 output of distributed generation resources in the applicable markets.

29 **3. Standard buyer cost allocation.** The commission and each standard buyer
30 designated pursuant to subsection 1 shall implement a transparent mechanism to track and
31 recover or distribute the net costs or revenue from procuring distributed generation
32 resources pursuant to this chapter. These net costs or benefits must be reviewed by the
33 commission and allocated to customers and recovered as set forth in section 3210-C,
34 subsection 8. Eligible costs and benefits include:

35 A. Incremental costs of serving as the standard buyer;

36 B. All payments to customers, subscribers and project sponsors under each
37 procurement pursuant to sections 3477 to 3479;

38 C. Any costs of providing renewable energy credits to participating customers
39 pursuant to section 3480, subsection 8; and

1 D. All revenue from sale of the output of distributed generation resources procured
2 pursuant to this chapter.

3 4. Rules. The commission shall adopt rules to implement this section by January 1,
4 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
5 chapter 375, subchapter 2-A.

6 **§3477. Grid-scale solar procurement**

7 1. Procurement. The commission shall conduct a competitive solicitation at least
8 once per year for long-term contracts for the output of grid-scale solar distributed
9 generation resources with a nameplate capacity of up to 5 megawatts. In each calendar
10 year, the commission shall seek to procure approximately 20% of the capacity needed to
11 meet the procurement target in section 3475, subsection 1, except that the commission
12 may modify this annual allocation if it concludes that doing so would be in the best
13 interests of all ratepayers. Prior to a solicitation, the commission shall develop, in
14 consultation with the standard buyer, a standard contract that commits all parties to
15 commercially reasonable behavior and includes provisions to ensure that projects proceed
16 to commercial operation on a reasonable timeline.

17 2. Bidder eligibility. The commission may establish minimum requirements for
18 bidders in a solicitation under subsection 1, including but not limited to site control,
19 development experience, completion of an interconnection application and system details
20 for potential bidders. The commission may require bidders to pay an application fee to
21 defray administrative costs.

22 3. Ensuring competition. Prior to each solicitation under subsection 1, the
23 commission shall establish standards to ensure that the solicitation has a sufficient
24 number of unique bidders and quantity of offered capacity to be determined competitive.
25 If the commission concludes based on these standards that a solicitation is not
26 competitive, no bidders may be selected and the capacity available in that solicitation
27 must be deferred to a subsequent solicitation. The commission may adjust the maximum
28 project size eligible for a solicitation to ensure that there is more than one bid selected.

29 4. Bid selection. Following review of bids, if the commission determines that the
30 solicitation under subsection 1 is competitive, the commission shall select one or more
31 winning bidders and direct the standard buyer to negotiate and enter into a contract with
32 the winning bidder or bidders for a term of 20 years at a specified contract rate. The
33 commission shall select bids that maximize benefits or minimize costs to all ratepayers.

34 5. Rules. The commission shall adopt rules to implement this section by January 1,
35 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
36 chapter 375, subchapter 2-A.

37 **§3478. Large-scale community solar procurement**

38 1. Procurement. The commission shall conduct competitive solicitations for long-
39 term contracts for the output of large-scale community solar distributed generation
40 resources. Solicitations may be conducted twice per year, or less frequently at the
41 discretion of the commission, but no less than once per year. In each calendar year, the

1 commission shall seek to procure approximately 20% of the capacity needed to meet the
2 procurement target in section 3475, subsection 2; except that the commission may modify
3 this annual allocation if it concludes that doing so would be in the best interests of all
4 ratepayers. Prior to a solicitation, the commission shall develop, in consultation with the
5 standard buyer, a standard contract that commits all parties to commercially reasonable
6 behavior and includes provisions to ensure that projects proceed to commercial operation
7 on a reasonable timeline.

8 **2. Bidder eligibility.** The commission may establish minimum requirements for
9 bidders in a solicitation under subsection 1, including but not limited to site control,
10 development experience, completion of an interconnection application and provision of
11 system details. The commission may require bidders to pay an application fee to defray
12 administrative costs.

13 **3. Ensuring competition.** Prior to each solicitation under subsection 1, the
14 commission shall establish standards to ensure that the solicitation has a sufficient
15 number of unique bidders and quantity of offered capacity to be determined competitive.
16 If the commission concludes based on these standards that a solicitation is not
17 competitive, no bidders may be selected and the capacity available in that solicitation
18 must be deferred to a subsequent solicitation. The commission may adjust the maximum
19 project size eligible for a solicitation to ensure that there is more than one bid selected.

20 **4. Bid selection.** Following review of bids in a solicitation under subsection 1, if the
21 commission determines that the solicitation is competitive, the commission shall select
22 one or more winning bidders and direct the standard buyer to negotiate and enter into a
23 contract with the winning bidder or bidders for a term of 20 years at a specified contract
24 rate. The commission shall select bids that maximize benefits or minimize costs to all
25 ratepayers.

26 **5. Payment and minimum subscription.** The project sponsor and subscribers must
27 receive the contract rate for the output of the large-scale community solar distributed
28 generation resource, except that after one year of commercial operation any unsubscribed
29 share of the project must be paid at the wholesale electricity rate. If less than 50% of a
30 resource's subscriptions are 25 kilowatts or less, any amount less than 50% from
31 subscriptions of this size are deemed unsubscribed. The project sponsor shall compensate
32 the standard buyer in an amount equal to the difference between the contract rate and the
33 wholesale electricity rate for the output of any share deemed unsubscribed under this
34 subsection.

35 **6. Determination of subscriber bill credit.** The bill credit to be allocated to each
36 subscriber to a particular large-scale community solar distributed generation resource
37 must be based on each subscriber's percentage interest of the total production of the large-
38 scale community solar distributed generation resource for the previous month. Each
39 billing month, the value of the credits allocated to each subscriber must be calculated by
40 multiplying the number of kilowatt-hours equal to each subscriber's share by the
41 resource's credit rate. The project sponsor shall provide to the transmission and
42 distribution utility, on a monthly basis and within reasonable periods set by that utility,
43 the information required to calculate the bill credit to be provided to each subscriber.

1 Payments to subscribers must be credited against the subscriber's monthly electricity bill
2 in accordance with section 3481.

3 The monthly output available for allocation as subscribed or unsubscribed energy must be
4 determined by a revenue-grade meter installed and paid for by the project sponsor.

5 **7. Exemption.** A project sponsor or subscriber is not considered a public utility or
6 competitive electricity supplier solely as a result of the project sponsor's or subscriber's
7 interest or participation in a large-scale community solar distributed generation resource.

8 **8. Renewable energy credits.** The commission shall develop a standard disclosure
9 to be provided by the project sponsor to all participating subscribers prior to their entering
10 into a contract under this section that describes the effect of selling the renewable
11 attributes of exported electricity to the standard buyer and explains how a subscriber may
12 participate in the voluntary renewable energy credit market.

13 The commission shall establish a mechanism to allow a residential or small business
14 customer who has entered into a long-term contract under this section to purchase
15 renewable energy credits equivalent to those the customer has sold to the standard solar
16 buyer at a price equal to 80% of market value.

17 **9. Consumer protection.** The commission shall establish by rule consumer
18 protection standards to protect subscribers from fraud and other unfair and deceptive
19 business practices. The commission may impose administrative penalties upon a project
20 sponsor in accordance with chapter 15 and may order restitution for any party injured by
21 a violation for which a penalty may be assessed pursuant to this subsection.

22 The commission through its own counsel or through the Attorney General may apply to
23 the Superior Court of any county of the State to enforce any lawful order made or action
24 taken by the commission pursuant to this subsection. The court may issue such orders,
25 preliminary or final, as it considers proper under the facts established before it.

26 **10. Disclosures.** A project sponsor selling or reselling a subscription in a large-scale
27 community solar distributed generation resource shall provide a disclosure to potential
28 subscribers that includes the following prior to the sale or resale of that subscription:

29 A. A good faith estimate of the annual kilowatt-hours to be delivered by the large-
30 scale community solar distributed generation resource based on the size of the
31 subscriber's interest;

32 B. A plain language explanation of the terms under which the bill credits under
33 section 3481 will be calculated;

34 C. A plain language explanation of the contract provisions regulating the disposition
35 or transfer of the subscription; and

36 D. A plain language explanation of the costs and benefits to the potential subscriber,
37 based on the subscriber's current usage and applicable tariff, for the term of the
38 proposed contract.

1 The commission may establish a standard disclosure to be provided to potential
2 subscribers by a project sponsor to disclose this information or such other information as
3 the commission may determine necessary to protect the interests of potential subscribers.

4 **11. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to
5 the associated project sponsor or to any person or entity who qualifies to be a subscriber
6 in the large-scale community solar distributed generation resource. A project sponsor
7 must provide a process for assignment or transfer of a subscription. A project sponsor
8 may not impose fees on a subscriber who moves to a different location within the same
9 utility service territory.

10 **12. Utility participation in community solar.** A transmission and distribution
11 utility may collaborate with a project sponsor in a nondiscriminatory manner to increase
12 customer participation in large-scale community solar distributed generation resource
13 projects. Collaboration with a project sponsor may include, but is not limited to:

14 A. Customer education;

15 B. Lease of utility-owned land on a competitive basis;

16 C. Project joint advertising;

17 D. Assistance with customer outreach and acquisition; and

18 E. Program administration.

19 A transmission and distribution utility may propose fees for services provided or may file
20 annually to recover any reasonable costs of collaboration to advance large-scale
21 community solar distributed generation resource projects under this section.

22 Collaboration with a project sponsor under this subsection does not create an affiliated
23 interest or a financial interest in generation or generation-related assets.

24 **13. Rules.** The commission shall adopt rules to implement this section by January 1,
25 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
26 chapter 375, subchapter 2-A.

27 **§3479. Commercial and industrial solar procurement**

28 **1. Procurement.** The commission shall conduct a competitive solicitation as
29 frequently as the commission determines reasonable but no less than once per year for
30 long-term contracts for the output of solar distributed generation resources of up to 2
31 megawatts associated with a single commercial or industrial customer account. In each
32 calendar year, the commission shall seek to procure approximately 20% of the capacity
33 needed to meet the procurement target in section 3475, subsection 3; except that the
34 commission may modify this annual allocation if it concludes that doing so would be in
35 the best interests of all ratepayers. Prior to a solicitation, the commission shall develop,
36 in consultation with the standard buyer, a standard contract that commits all parties to
37 commercially reasonable behavior and includes provisions to ensure that projects proceed
38 to commercial operation on a reasonable timeline.

39 **2. Bidder eligibility.** The commission may establish minimum requirements for
40 bidders in a solicitation under subsection 1, including but not limited to site control,

1 development experience, completion of an interconnection application and system details
2 for potential bidders. The commission may require bidders to pay an application fee to
3 defray administrative costs.

4 **3. Ensuring competition.** Prior to each solicitation under subsection 1, the
5 commission shall establish standards to ensure that the solicitation has a sufficient
6 number of unique bidders and quantity of offered capacity to be determined competitive.
7 If the commission concludes based on these standards that a solicitation is not
8 competitive, no bidders may be selected and the capacity available in that solicitation
9 must be deferred to a subsequent solicitation. The commission may adjust the maximum
10 project size eligible for a solicitation to ensure that there is more than one bid selected.

11 **4. Bid selection.** Following review of bids, if the commission determines that the
12 solicitation is competitive, the commission shall select one or more winning bidders and
13 direct the standard buyer to negotiate and enter into a contract with the winning bidder or
14 bidders for a term of 20 years at a specified contract rate to be paid as a bill credit to the
15 commercial and industrial customer. The commission shall select bids that maximize
16 benefits or minimize costs to all customers.

17 **5. Determination of bill credit.** The bill credit to be allocated to a commercial and
18 industrial customer must be based on the total kilowatt-hours of energy production of the
19 solar distributed generation resource for the previous month. Each billing month, the
20 value of the credits must be calculated by multiplying the number of kilowatt-hours by
21 the contract rate. Payments to customers must be credited against the customer's monthly
22 electricity bill in accordance with section 3481.

23 The monthly production must be determined by a revenue-grade meter installed and paid
24 for by the participating commercial and industrial customer.

25 **6. Exemption.** A customer is not considered a public utility or competitive
26 electricity supplier solely as a result of entering into a contract with the standard buyer
27 under this section.

28 **7. Rules.** The commission shall adopt rules to implement this section by January 1,
29 2017. Rules adopted under this subsection are routine technical rules as defined in Title 5,
30 chapter 375, subchapter 2-A.

31 **§3480. Residential and small business procurement**

32 **1. Long-term contracts.** The standard buyer shall enter into a long-term contract
33 with a residential or small business customer for the output of a distributed generation
34 resource of 250 kilowatts or less. The rate paid for the output must be set by the
35 commission in accordance with subsection 2. Payments to customers under a contract
36 under this section must be credited against the customer's monthly electricity bill in
37 accordance with section 3481.

38 **2. Rates.** The commission shall establish the rates to be paid for the output of
39 distributed generation resources under a contract between a residential or small business
40 customer and the standard buyer under subsection 1.

1 The initial rate paid to new installations must decline as the total level of new residential
2 and small business capacity relative to the targets in section 3475, subsection 4 increases.

3 Rates must be sufficient to ensure that the total capacity of installations meets the
4 residential and small business procurement targets set forth in section 3475, subsection 4.
5 In determining whether rates are sufficient, the commission shall consider independent
6 analysis of installation costs and development projections in establishing the rates,
7 including but not limited to those from the United States Department of Energy, Office of
8 Energy Efficiency and Renewable Energy, National Renewable Energy Laboratory.

9 Rates must be set at levels intended to ensure that total annual contract payments for new
10 solar distributed generation resources procured under this section are not expected to
11 exceed \$10,500,000 per year in 2022, if the procurement targets in section 3475,
12 subsection 4 are met, assuming an export rate of 50% and that the adjustment mechanism
13 in subsection 3 is not triggered. Rates set under this subsection may be constant or
14 increase over the term of the contract.

15 The commission may establish separate rates for specific types of distributed generation
16 resources or additional incentives or a per kilowatt-hour increase in contract price for
17 resources with attributes that maximize benefits or lower costs to all customers.

18 **3. Rate adjustment mechanism.** The commission shall establish an adjustment
19 mechanism to automatically increase rates for new customers by a specified amount if the
20 total solar distributed generation resource capacity installed by residential and small
21 business customers under this section is less than 85% of the applicable target established
22 in section 3475, subsection 4. The evaluation to determine whether this adjustment is
23 triggered must occur at 6-month intervals.

24 **4. Self-consumption.** Notwithstanding section 1, a residential or small business
25 customer may offset that customer's own consumption using that customer's distributed
26 generation resource on an hourly basis. The commission may specify a longer period for
27 measuring self-consumption if it determines that a transmission and distribution utility
28 cannot track consumption on an hourly basis using a standard residential meter.

29 **5. Small-scale community distributed generation resources.** Residential and
30 small business customers may jointly participate in a single distributed generation
31 resource and receive payments under subsection 1 in proportion to each contracted share
32 of the resource. The commission shall ensure that distributed generation resources with
33 shared ownership at the same location are separate facilities. A customer or owner is not
34 considered a public utility or competitive electricity supplier solely as a result of interest
35 or participation in a single shared distributed generation resource under this subsection.

36 **6. Continuation of net energy billing.** The commission's net energy billing rules
37 existing on the effective date of this subsection remain in effect, without modification, for
38 all customers until new rules pursuant to subsection 10 take effect. On the effective date
39 of the rules established pursuant to subsection 10, net energy billing pursuant to section
40 3209-A is not available to new customers, unless reinstated pursuant to the program
41 review described in subsection 11.

1 **7. Existing net energy billing customers.** A customer who has elected net energy
2 billing pursuant to section 3209-A prior to the effective date of rules established pursuant
3 to subsection 10 continues to be eligible for compensation in the form of a kilowatt-hour
4 credit on the customer's monthly electricity bill for generation in excess of that customer's
5 consumption for that month, which may be carried forward and applied to the customer's
6 subsequent monthly electricity bills over 12 months, or the financial equivalent of that
7 credit, for 12 years from the effective date of rules established pursuant to subsection 10.
8 The commission shall establish a process to permit customers under this subsection to
9 enter into contracts and receive payments under subsections 1 and 2.

10 A customer who has elected net energy billing between January 1, 2016 and the effective
11 date of the rules established pursuant to subsection 10 may choose to enter into a contract
12 at the initial rate established by the commission under subsection 2 prior to any decline in
13 rate, as long as that customer makes that choice within one year of the effective date of
14 the rules.

15 The capacity of a net energy billing customer who has installed a solar distributed
16 generation resource and participated in net energy billing under section 3209-A prior to
17 the effective date of rules established pursuant to subsection 10 and elects to enter into a
18 long-term contract under this subsection may not be counted against the procurement
19 target in section 3475, subsection 4 or the cap on total annual contract payments under
20 subsection 2 or trigger any decline in prices.

21 No later than December 31, 2028, the commission shall initiate a proceeding to consider
22 methods to allow an owner of a distributed generation resource to continue to offset that
23 owner's own consumption and receive fair compensation for exported power in a manner
24 that benefits all ratepayers.

25 **8. Renewable energy credits.** A participating residential or small business
26 customer retains all environmental attributes associated with electricity generated by a
27 distributed generation resource that is not exported to the grid and sold to the standard
28 buyer. The commission shall develop a standard disclosure to be provided to all
29 participating customers prior to their entering into a contract under this section that
30 describes the effect of selling the renewable attributes of exported electricity to the
31 standard buyer and explains how a customer may participate in the voluntary renewable
32 energy credit market.

33 The commission shall establish a mechanism to allow a residential or small business
34 customer who has entered into a long-term contract under this section to purchase
35 renewable energy credits equivalent to those the customer has sold to the standard solar
36 buyer at a price equal to 80% of market value.

37 **9. Consumer-owned utility exemption.** This section does not apply to a consumer-
38 owned transmission and distribution utility and its customers.

39 **10. Rules.** The commission shall provisionally adopt rules to implement this section
40 by December 31, 2016. Rules adopted under this subsection are major substantive rules
41 as defined in Title 5, chapter 375, subchapter 2-A.

42 **11. Program review.** By 18 months after the effective date of rules adopted
43 pursuant to subsection 10, or when 21 megawatts of capacity have been installed by

1 residential and small business customers pursuant to this section, whichever is earlier, the
2 commission shall initiate an expedited proceeding to determine whether:

3 A. The procurement targets in section 3475, subsection 4 are likely to be met through
4 2022; and

5 B. The total cost to all customers is likely to be less than if the procurement targets in
6 section 3475, subsection 4 were installed under the commission's net energy billing
7 rules.

8 If the commission concludes that both conditions under paragraphs A and B will be met,
9 the rules established pursuant to subsection 10 remain in effect, and net energy billing
10 pursuant to section 3209-A is not available to new customers in the future.

11 If the commission concludes that the condition under paragraph A or B will not be met,
12 the commission shall make findings regarding the reasons the condition will not be met
13 and provide a report summarizing its conclusions to the joint standing committee of the
14 Legislature having jurisdiction over utility matters within 30 days of the start of the
15 Second Regular Session of the 129th Legislature. If the commission determines that the
16 rules adopted under this section can be modified to enable the program to meet
17 procurement targets or reduce costs so that the conditions under paragraphs A and B are
18 likely to be met in the future, it shall make and submit such changes to the Second
19 Regular Session of the 129th Legislature. If the commission determines that these rules
20 cannot be modified to meet these targets or reduce costs, the commission shall review its
21 net energy billing rules or recommend alternative mechanisms to support distributed
22 generation in a manner that benefits all ratepayers. If the commission does not propose
23 changes to the rules adopted pursuant to subsection 10 or new rules are not adopted
24 within 60 days of the adjournment of the Second Regular Session of the 129th
25 Legislature, net energy billing pursuant to section 3209-A must be made available to new
26 customers on that date.

27 **§3481. Bill credits**

28 This section applies to any credits assigned to a customer's bill under this chapter.

29 If the value of the credit to be applied to a customer's bill is less than the amount
30 owed by the customer at the end of the applicable billing period, the customer must be
31 billed for the difference between the amount shown on the bill and the value of the
32 available credits.

33 If the value of the credits to be applied to a customer's bill is greater than the amount
34 owed by the customer at the end of the billing period, the remaining value of the credit
35 must carry over from month to month until a specified date each year. The commission
36 shall establish a minimum of 2 standard credit expiration dates that provide customers the
37 opportunity to use bill credits to the maximum extent practicable in a given 12-month
38 period. Any remaining credits as of that date must be credited to the standard buyer and
39 may not be applied against any future customer bill.

40 **Sec. 7. Siting of solar distributed generation resources.** By January 1, 2019,
41 the Public Utilities Commission shall report to the joint standing committees of the
42 Legislature having jurisdiction over utility matters and natural resources matters the

1 number of new solar distributed generation resources procured pursuant to the Maine
2 Revised Statutes, Title 35-A, sections 3477 to 3479 that have been built on pre-existing
3 impervious surfaces or brownfields where future development is affected by the presence
4 or potential presence of a hazardous substance. The report must include measures to
5 encourage siting of distributed generation resources at such locations identified by the
6 commission in cooperation with the Department of Environmental Protection.

7 SUMMARY

8 This bill is reported out by the Joint Standing Committee on Energy, Utilities and
9 Technology pursuant to Resolve 2015, chapter 37, section 2. The resolve directed the
10 Public Utilities Commission to convene a stakeholder group to develop an alternative to
11 net energy billing. This bill reflects the consensus developed in that process and
12 subsequent negotiations between stakeholders and establishes a comprehensive
13 framework to support distributed generation in Maine.

14 The committee has not taken a position on the substance of this bill, and by reporting
15 this bill out, the committee is not suggesting and does not intend to suggest that it agrees
16 or disagrees with any aspect of this bill. The committee is reporting the bill out for the
17 sole purpose of turning the commission's proposal into a printed bill that can be referred
18 to the committee for an appropriate public hearing and subsequent processing in the
19 normal course. The committee is taking this action to ensure clarity and transparency in
20 the legislative review of the proposal.

21 The bill directs the Public Utilities Commission to enter into long-term contracts with
22 a duration of 20 years for the procurement of 248 megawatts of solar energy over a 5-year
23 period beginning in 2017. The bill specifies that 24% or 60 megawatts are to be allotted
24 to grid-scale solar distributed generation resources; 19% or 45 megawatts to large-scale
25 community solar distributed generation resources; 10% or 25 megawatts to commercial
26 and industrial distributed generation resources; and 47% or 118 megawatts to residential
27 and small business distributed generation resources.

28 The bill creates a standard buyer, which the bill specifies is the investor-owned
29 transmission and distribution utility in its service territory. The bill allows the
30 commission to designate another entity as the standard buyer if it determines it is in the
31 best interest of ratepayers to do so. The purpose of the standard buyer is to purchase the
32 output of each category of distributed generation resource, aggregate the portfolio of
33 distributed generation resources procured and sell it into the relevant New England
34 markets.

35 The bill directs the commission to conduct competitive solicitations for 20% of the 5-
36 year target procurement for long-term contracts for the output of grid-scale, large-scale
37 community, and commercial and industrial solar distributed generation. The frequency of
38 solicitation varies with the particular category of distributed generation resource. The bill
39 directs the commission and standard buyer to develop a contract prior to a solicitation that
40 will ensure that projects proceed to commercial operation on a reasonable timeline and
41 commits all parties to commercially reasonable behavior. The bill gives the commission
42 authority to establish requirements for bidder eligibility and standards to ensure

1 competition in the bidding process. The bill also specifies that if the solicitation is
2 deemed competitive the commission must select one or more winning bids and direct the
3 standard buyer to negotiate and enter into a contract with the winning bidder or bidders.
4 The bill requires the commission to select bids that maximize the benefits or minimize the
5 costs to all ratepayers.

6 The bill provides that residential and small business customers receive 20-year
7 contracts at a set price for new distributed generation resources that are 250 kilowatts or
8 less. The bill specifies that those customers would have the option of selling their entire
9 output or using their generation to offset their electric consumption with the ability to sell
10 any excess electricity at prices established under the contracts. The bill provides that the
11 commission would set the contract price and the price new customers receive would
12 decrease over time as the installations increase. Contract prices set by the commission
13 must be high enough to meet the specified targets but be below a cap on the overall cost
14 of this portion of the program. The bill also allows the commission to establish a rate
15 adjustment mechanism to increase rates for new customers to increase the number of
16 installations and to meet targets.

17 The bill specifies that existing net metering customers may continue to net meter
18 under commission rules for 12 years after the effective date of major substantive rules
19 adopted as required by the bill to implement the residential and small business solar
20 program. The bill allows existing net metering customers to enter into a long-term
21 contract under the new program, but does not allow new customers to participate in net
22 metering.

23 The bill requires the commission to initiate a proceeding 18 months after the effective
24 date of major substantive rules adopted to implement the residential and small business
25 solar program, or 21 megawatts of capacity has been installed, whichever is sooner, to
26 determine if installation targets are likely to be met by 2022, and the total cost to all
27 customers is likely to be less using long-term contracts, rather than net metering. The bill
28 specifies that if the commission does not find that installation targets are going to be met
29 and long-term contracts are not going to be more cost-effective than net metering, the
30 commission may modify the rules, with legislative approval, to meet the goals and reduce
31 costs. If the rules cannot be modified and the commission does not propose an alternative
32 to the Second Regular Session of the 129th Legislature, or if the Legislature fails to act,
33 then net metering will be available to new customers.

34 The bill also allows for a solar power offer, in addition to the existing green power
35 offer under the Maine Revised Statutes, Title 35-A, section 3212-A, that is available to all
36 residential and small commercial electricity customers. Like the green power offer, the
37 solar power offer sunsets on April 1, 2021.



Mike Murray <msm@portlandmaine.gov>

Fwd: Idea for Legislative Session

1 message

Jon Jennings <jpj@portlandmaine.gov>
To: Mike Murray <msm@portlandmaine.gov>

Wed, Oct 31, 2018 at 6:04 PM

----- Forwarded message -----

From: **Jeff Levine** <jlevine@portlandmaine.gov>
Date: Wed, Oct 31, 2018 at 12:15 PM
Subject: Idea for Legislative Session
To: Jon Jennings <jpj@portlandmaine.gov>

1. Stretch Code as a local option for building code. This would allow cities to opt in to higher energy efficiency standards in their building code as a way of meeting climate change targets. Massachusetts did this a few years back, and so far 2/3 of all the state's communities opted in:

<https://www.mass.gov/service-details/building-energy-codes>

2. Changes to state zoning legislation to allow for more flexibility when applicants seek some kinds of variances or conditional use approvals. Right now the rules are very cut and dry. I don't have a specific proposal right now but could work on one if there is interest. I think MEREDA would support some changes in this direction as long as they were not giving cities too much power to say no all the time.

3. Fixing the subdivision fix from last session. We got it to the finish line and then MEREDA, whose bill was the one we had agreed to support, dropped the ball when the bill was being finalized. As currently written it doesn't apply to sites under 1.5 acres in size.

Jeff

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Mike Murray <msm@portlandmaine.gov>

Re: Legislative Session

1 message

Christopher Huff <chuff@portlandmaine.gov>

Fri, Nov 2, 2018 at 11:28 AM

To: Jon Jennings <jpj@portlandmaine.gov>, Mike Murray <msm@portlandmaine.gov>, Michael Sauschuck <mjs@portlandmaine.gov>, Brendan O'Connell <boconnell@portlandmaine.gov>

Jon,

LD 1212, SP 406, was a bill that was introduced in 2017 and died on adjournment of the 128th Legislature on 9/13/18. This bill needs to be introduced again in the next session and moved through to passage. This bill had the full support of MMA.

LD 1212 is titled 'An Act To Amend the Definition of "Eligible Business Equipment" for the Purposes of the Business Equipment Tax Exemption Program'. Specifically, this bill repeals the exemption provided to companies that lease personal property to hospitals (e. g. MRI machines, x-ray machines, photocopiers, etc.), but simultaneously makes the property eligible for enrollment in the state's Business Equipment Tax Exemption (BETE) program.

Currently, only the personal property leased to hospitals is provided a special exemption from taxation. The hospital leased personal property exemption, enacted in 1975, was at the time and remains to this day, an outlier in Maine's tax code. Property that is leased by a tax exempt entity, unless the lessor is also exempt from property taxation, is subject to property taxation in virtually all other circumstances in the state.

The proposed change would not have an impact on the bottom lines of the leasing company or the hospital, because the property leased to the hospital would be seamlessly exempt from taxation through enrollment in the BETE program. The proposal would, however benefit communities with hospitals within their municipal boundaries. As the leased property is enrolled in the BETE program, the host municipality would be eligible for state reimbursement equal to 50% of the lost property tax revenue associated with the leased personal property. Under the current exemption, 100% of the lost revenue is borne by the local property taxpayers. As Portland contains the state's two largest hospitals, this is a substantial amount of revenue being subsidized by every other taxpayer.

The FY19 estimated personal property value in hospital leased equipment for Portland is approximately \$4.5 million dollars. This equates to just over \$100,000 in taxes lost to the City. This number will only continue to grow as both MMC and Mercy expand their campuses.

Chris

On Wed, Oct 31, 2018 at 5:48 PM Jon Jennings <jpj@portlandmaine.gov> wrote:

Good Evening,

As a reminder, please submit your ideas for bills to submit to the Legislative Committee for their review before submitting to our delegation by November 1st. Please copy Mike Murray on your emails.

**CITY LEGISLATIVE COMMITTEE 2018-2019
FLOW CHART**

COMPILE CITY STAFF LEGISLATIVE PRIORITIES
AND DISCUSS WITH LEGISLATIVE COMMITTEE --
who will ultimately decide what to pursue with
the Legislative Delegation



Legislative Committee Discusses City Priorities with Legislative
Delegation including City Staff priorities + list of submitted and
proposed bills



City Council votes on list that we will be supporting,
December 17, 2018 City Council Meeting

Submit final list to Legislative
delegation and Lobbyist

If emergency and other
issues arise throughout
the Legislative Session,
Lobbyist will discuss
with City Staff and
Legislative Committee
(if possible) and
Legislative Committee
Chair to determine best
course of action.

**TRACKING LIST OF
APPROVED BILL TITLES**

City Staff/Lobbyist/
Legislative Committee
track bills throughout
drafting; release;
committee process,
both chambers until
chaptered law via
tracking list.

Weekly meetings
soon after Friday
update of tracking
list. Priority
assigned to bills by
Committee.

City staff draft
testimony and
testify as
determined by the
Legislative

Perennial Issues to Discuss Pre Session

1. **Revenue sharing** (full funding/increasing funding - currently 2% and want it to back to 5%)
2. **School funding**
 - a. Changes to the formula
 - b. State aid for education/property tax relief (making good on 55% obligation to municipalities)
 - c. Free and reduced lunch
 - d. Supports for low income students
 - e. School based health centers
 - f. Funding for facilities/school construction (revolving school loan fund)
3. **Addressing the opioid crisis** (funding and support for evidence-based prevention, treatment and enforcement measures)
 - a. Funding for needle exchanges
 - b. Funding/increased support for LEAD type programs
4. **Public benefits** – General protection of/increased state funding for state SSI, TANF, and GA
 - a. Oppose the creation of additional/unreasonable barriers to accessing benefits
 - b. Support increased state funding (change GA funding form?)
 - c. Support reimbursement of service centers by the municipalities that send them (or the state)
5. **Public benefits (mostly GA) for non-citizens/asylum seekers**
6. **LOST** -
 - a. MC/MMA/Service Center Coalition may be able to take lead on this issue. MMA and Mayor's coalition both exploring proposals.
 - b. Adult use cannabis LOST for host communities?
7. **Firearms controls**
 - a. Guns in school parking lots
 - b. Red flag bill.
 - c. Background checks
8. **Affordable housing**
 - a. Senior housing
 - b. Housing for those experiencing homeless
9. **Automobile excise tax**

10. **Property tax proposals** (support or opposition depends on impact of proposal)

11. **Homestead exemption**

12. **County jail funding**

13. **County inmate healthcare costs**

14. **Bonds (especially for infrastructure, roads, schools, etc.)**

Other bills we anticipate this year for which you may want to pre-discuss your position.

1. Adult Use Marijuana Tax Revenue

- a. MMA considering proposing 25% of excise and sales tax revenues from adult use cannabis be shared with host communities.

2. Moving CDS services to the public schools (Per Xavier, this is ok as long as it doesn't become part of the EPS formula)

3. ELL criteria changes - Changes to the criteria for students to exit the ELL program will result in loss in school funding for Portland (about 160-200 kids will exit due to the change). We need a temporary fix to cover this year. Heather Sanborn offered to put in a bill/spoke to Xavier.