



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 13

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H.P. 14

House of Representatives, January 2, 2019

### An Act To Allow Microgrids That Are in the Public Interest

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

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

ROBERT B. HUNT  
Clerk

Presented by Representative DEVIN of Newcastle.

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

2 **Sec. 1. 35-A MRSA §2305-B, sub-§§1 and 2**, as enacted by PL 2001, c. 110,  
3 §2, are amended to read:

4 **1. Transmission and distribution utilities; microgrids.** A transmission and  
5 distribution utility or a person that constructs, maintains or operates a new microgrid  
6 approved in accordance with section 3351, subsection 3 may construct and maintain its  
7 lines in, upon, along, over, across or under the roads and streets in any municipality in  
8 which it is authorized to supply electricity, subject to the conditions and restrictions  
9 provided in this chapter and chapter 25.

10 **2. Persons other than transmission and distribution utilities or persons that**  
11 **construct, maintain or operate a new microgrid.** A person other than a transmission  
12 and distribution utility or person that constructs, maintains or operates a new microgrid  
13 approved in accordance with section 3351, subsection 3 may not construct or maintain  
14 electric lines, including poles or other related structures, in, upon, along, over, across or  
15 under a road, street or other public way unless:

- 16 A. The person satisfies the requirements of section 2503;
- 17 B. The person or the person's contractor hired to construct the line provides to the  
18 applicable licensing authority a performance bond:
- 19 (1) In the amount of the value of the line, including poles or other related  
20 structures, to be located in the public way; and
- 21 (2) That is enforceable for one year from the date the line is energized;
- 22 C. Prior to constructing the line, the person notifies the transmission and distribution  
23 utility in whose service territory the line is proposed to be built of the proposed  
24 location of the line; and
- 25 D. If a public utility objects to the line on the basis that it may constitute a  
26 duplication of existing transmission or distribution facilities or may interfere with the  
27 adequate and safe delivery of electricity to others, the commission issues a finding  
28 that the line is not a duplication of existing transmission or distribution facilities and  
29 does not interfere with the adequate and safe delivery of electricity to others. A  
30 finding is not required under this paragraph unless a public utility has objected in  
31 writing to the applicable licensing authority.

32 **Sec. 2. 35-A MRSA c. 33-A** is enacted to read:

33 **CHAPTER 33-A**

34 **MICROGRIDS**

35 **§3351. Microgrids**

36 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the  
37 following terms have the following meanings.

1           A. "Distributed energy resources" means small-scale electrical generation sources  
2           located close to where the generated electricity is used.

3           B. "New microgrid" means a group of interconnected loads and distributed energy  
4           resources within clearly defined electrical boundaries that acts as a single controllable  
5           entity with respect to the electric grid and can connect and disconnect from the  
6           electric grid to enable the new microgrid to operate in both electric grid-connected  
7           mode and nongrid-connected mode, also referred to as island mode, and that is  
8           constructed after October 1, 2019.

9           **2. Microgrids, public utility exception.** Notwithstanding section 2102 or any other  
10          provision of this Title, a person that constructs, maintains or operates a new microgrid  
11          approved under subsection 3 does not, as a result of furnishing service through that new  
12          microgrid to participating consumers, become a public utility and is not subject to  
13          regulation as a public utility under this Title.

14          **3. Commission approval.** The commission shall approve a petition to construct and  
15          operate a new microgrid if the commission finds that operation of the new microgrid is in  
16          the public interest and the new microgrid meets at least the following requirements:

17          A. The proposed new microgrid will serve a total load of no more than 10  
18          megawatts;

19          B. The distributed energy resources for the new microgrid meet the portfolio  
20          requirements in section 3210, subsections 3 and 3-A;

21          C. The person proposing the new microgrid demonstrates that the person has the  
22          financial capacity to operate the proposed new microgrid;

23          D. The person proposing the new microgrid demonstrates the technical capability to  
24          operate the proposed new microgrid;

25          E. There is a relationship between the proposed new microgrid operator and  
26          consumers within the area to be served by the proposed new microgrid;

27          F. The person proposing, owning or operating the new microgrid is not an investor-  
28          owned transmission and distribution utility, an affiliate of an investor-owned  
29          transmission and distribution utility or an affiliated interest of an investor-owned  
30          transmission and distribution utility; and

31          G. The proposed new microgrid will not negatively affect the reliability and security  
32          of the electrical system.

33          For the purposes of this subsection, when determining whether a proposed new microgrid  
34          is in the public interest, the commission may consider possible ratepayer effects, whether  
35          positive or negative, benefits due to the increased resilience or reliability of the electric  
36          grid, economic development benefits or any other factors the commission considers  
37          necessary to promote the public interest.

38          In granting its approval, the commission shall impose such terms, conditions or  
39          requirements on the construction, maintenance or operation of the new microgrid as, in its  
40          judgment, it considers necessary.

