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Date: (Filing No. H-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 861, L.D. 1347, “An Act to Eliminate the Current Net Energy Billing Policy in Maine”

Amend the bill by striking out the title and substituting the following:

'An Act to Reduce the Cost of Net Energy Billing for Ratepayers'

Amend the bill by striking out the emergency preamble and substituting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine's net energy billing programs will add to ratepayers' energy bills unless the current programs are amended; and

Whereas, long-term contracting and the development of optional programs will reduce the number of the projects that otherwise would participate in net energy billing; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 2 MRSA §9, sub-§6-A is enacted to read:

6-A. Distributed Solar and Energy Storage Program. The Distributed Solar and Energy Storage Program is established to provide funding to foster the continued growth of cost-effective distributed solar facilities and energy storage systems. The office, as funding allows, shall develop the program no later than July 1, 2024.

A. As used in this subsection, the following terms have the following meanings.

COMMITTEE AMENDMENT

1 (1) "Distributed solar facility" means a solar electricity generating facility
2 interconnected to a transmission and distribution utility as defined in Title 35-A,
3 section 102, subsection 20-B.

4 (2) "Energy storage system" has the same meaning as in Title 35-A, section 3481,
5 subsection 6.

6 (3) "Program" means the Distributed Solar and Energy Storage Program
7 established in this subsection.

8 B. The program must be designed to obtain and provide available federal funds to
9 support cost-effective distributed solar facilities and energy storage systems. The office
10 shall consult with the Public Utilities Commission and the Office of the Public
11 Advocate in developing and administering the program.

12 C. In order to support the office's activities in administering the program, the office
13 may request funding from the Public Utilities Commission for the office's
14 administrative costs, which may include, but are not limited to, costs associated with
15 hiring consultants and office personnel and contracting for technical analysis. If the
16 office requests funding in accordance with this paragraph, the commission may provide
17 funding, to the extent available, from the Public Utilities Commission Reimbursement
18 Fund under Title 35-A, section 117.

19 D. The office shall apply for available federal funds to fund the program, including,
20 but not limited to, funds from the United States Environmental Protection Agency's
21 Greenhouse Gas Reduction Fund.

22 E. By January 15th of each year, the office shall provide a report to the joint standing
23 committee of the Legislature having jurisdiction over energy matters summarizing its
24 activities under the program and evaluating the program's benefits and costs to
25 ratepayers.

26 F. Except as provided in paragraph C, ratepayer funds may not be used to implement
27 the program or to provide funding under the program to distributed solar facilities or
28 energy storage systems.

29 **Sec. 2. 35-A MRSA §120, sub-§6-A**, as enacted by PL 2021, c. 236, §2, is
30 amended to read:

31 **6-A. Microgrids.** Beginning February 1, 2025, any activities undertaken by the
32 commission related to new microgrids as defined in section 3351, subsection 1, paragraph
33 B, including whether any new microgrids have been approved; ~~and~~

34 **Sec. 3. 35-A MRSA §120, sub-§6-B** is enacted to read:

35 **6-B. Net energy billing data.** Distributed generation resources, as defined in section
36 3209-A, subsection 1, paragraph B, participating in net energy billing arrangements under
37 section 3209-A or 3209-B. The commission shall include in the report:

38 A. The name, size and location of the resource;

39 B. The compensation received by the resource under the net energy billing
40 arrangement, expressed as a total dollar number and price per kilowatt-hour, for the
41 12-month period preceding the report and for the entire period since the resource began
42 participation in the arrangement; and

1 C. The name and address of the entity owning or controlling the resource; and

2 **Sec. 4. 35-A MRSA §3209-A, sub-§3**, as enacted by PL 2019, c. 478, Pt. A, §3, is
3 amended to read:

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

17 **Sec. 5. 35-A MRSA §3209-A, sub-§3-A** is enacted to read:

18 **3-A. Shared financial interest; 10-customer limitation beginning September 1,**
19 **2023.** Beginning September 1, 2023, the following limitations apply.

20 A. Except as provided in paragraph B, no more than 10 customers of an investor-
21 owned transmission and distribution utility may share a financial interest in a
22 distributed generation resource and participate in net energy billing under this section.
23 In order to qualify to participate in net energy billing under this paragraph, the
24 distributed generation resource must be located on the same side of a meter as one of
25 the 10 customers and serve the electric load of that customer and at least 50% of the
26 net energy billing credits associated with the output of the distributed generation
27 resource must be allocated to that customer.

28 B. The limitation under paragraph A does not apply to a customer participating in net
29 energy billing under this section pursuant to a net energy billing agreement that was
30 entered into prior to September 1, 2023.

31 **Sec. 6. 35-A MRSA §3209-A, sub-§4**, as enacted by PL 2019, c. 478, Pt. A, §3, is
32 amended to read:

33 **4. System size.** The Subject to the limitations specified in subsection 4-A, the
34 nameplate capacity of a distributed generation resource that may be used for net energy
35 billing must be less than 5 megawatts, except that, if a municipality is the customer
36 participating in net energy billing, the nameplate capacity of a distributed generation
37 resource located in that municipality that may be used for the net energy billing may be 5
38 megawatts or more, as long as less than 5 megawatts of metered electricity from the
39 resource is used for net energy billing.

40 **Sec. 7. 35-A MRSA §3209-A, sub-§4-A** is enacted to read:

41 **4-A. System size beginning September 1, 2023.** Beginning September 1, 2023, the
42 following limitations apply.

1 A. Except as provided in paragraph B, the nameplate capacity of a distributed
2 generation resource that may be used for net energy billing under this section may not
3 be more than 660 kilowatts, except that, if a municipality is the customer participating
4 in net energy billing, the nameplate capacity of a distributed generation resource
5 located in that municipality that may be used for the net energy billing may be greater
6 than 660 kilowatts as long as not more than 660 kilowatts of metered electricity from
7 the resource is used for net energy billing.

8 B. The limitation under paragraph A does not apply to a customer participating in net
9 energy billing under this section pursuant to a net energy billing agreement that was
10 entered into prior to September 1, 2023.

11 **Sec. 8. 35-A MRSA §3209-B, sub-§3**, as enacted by PL 2019, c. 478, Pt. A, §4, is
12 amended to read:

13 **3. System size.** The Subject to the limitations specified in subsection 3-A, the
14 nameplate capacity of a distributed generation resource that may be used for net energy
15 billing under this section must be less than 5 megawatts.

16 **Sec. 9. 35-A MRSA §3209-B, sub-§3-A** is enacted to read:

17 **3-A. System size beginning September 1, 2023.** Beginning September 1, 2023, the
18 following limitations apply.

19 A. Except as provided in paragraph B, the nameplate capacity of a distributed
20 generation resource that may be used for net energy billing under this section may not
21 be more than 660 kilowatts.

22 B. The limitation under paragraph A does not apply to a customer participating in net
23 energy billing under this section pursuant to a net energy billing agreement that was
24 entered into prior to September 1, 2023.

25 **Sec. 10. 35-A MRSA §3209-B, sub-§4**, as enacted by PL 2019, c. 478, Pt. A, §4,
26 is amended to read:

27 **4. Shared financial interest; limitation.** Multiple commercial or institutional
28 customers that have distinct billing accounts with an investor-owned transmission and
29 distribution utility may share a financial interest in a distributed generation resource under
30 subsection 2. ~~Any number of~~ Subject to the limitations specified in subsection 4-A,
31 commercial or institutional customers may participate in net energy billing with a shared
32 interest in a distributed generation resource, except that the number of customers or meters
33 is limited to 10 for a shared interest in a distributed generation resource located in the
34 service territory of an investor-owned transmission and distribution utility located in an
35 area administered by the independent system administrator for northern Maine or any
36 successor of the independent system administrator for northern Maine unless the
37 commission determines that the utility's billing system can accommodate more than 10
38 accounts or meters for the purpose of net energy billing.

39 **Sec. 11. 35-A MRSA §3209-B, sub-§4-A** is enacted to read:

40 **4-A. Shared financial interest; 10-customer limitation beginning September 1,**
41 **2023.** Beginning September 1, 2023, the following limitations apply.

1 A. Except as provided in paragraph B, no more than 10 customers of an investor-
2 owned transmission and distribution utility may share a financial interest in a
3 distributed generation resource and participate in net energy billing under this section.
4 In order to qualify to participate in net energy billing under this paragraph, the
5 distributed generation resource must be located on the same side of a meter as one of
6 the 10 customers and serve the electric load of that customer and at least 50% of the
7 net energy billing credits associated with the output of the distributed generation
8 resource must be allocated to that customer.

9 B. The limitation under paragraph A does not apply to a customer participating in net
10 energy billing under this section pursuant to a net energy billing agreement that was
11 entered into prior to September 1, 2023.

12 **Sec. 12. 35-A MRSA §3209-C** is enacted to read:

13 **§3209-C. Review of compensation; alteration**

14 **1. Review of compensation.** Notwithstanding the provisions of sections 3209-A and
15 3209-B, the commission may periodically review and by rule alter the amount of
16 compensation that a customer with a financial interest in a distributed generation resource
17 receives as a result of participating in net energy billing under section 3209-A or 3209-B.
18 In making any alteration under this section, the commission shall use a standard or
19 representative distributed generation resource to assess the amount of compensation
20 provided under section 3209-A or 3209-B and shall ensure that any alteration provides a
21 reasonable opportunity for the recovery of reasonable costs, as determined by the
22 commission, and a reasonable rate of return. The commission may not increase any
23 compensation above the lowest amount that would be received under section 3209-B.

24 **2. Alteration.** Notwithstanding the provisions of sections 3209-A and 3209-B, the
25 commission may modify by rule the requirements under section 3209-A or 3209-B to the
26 extent necessary to allow the State or a distributed generation resource participating in a
27 net energy billing arrangement under section 3209-A or 3209-B to qualify for federal grants
28 or subsidies that benefit ratepayers in this State.

29 **3. Rules.** Rules adopted pursuant to this section are major substantive rules as defined
30 in Title 5, chapter 375, subchapter 2-A.

31 **Sec. 13. 35-A MRSA §3209-D** is enacted to read:

32 **§3209-D. Competitive solicitation for qualifying net energy billing projects**

33 No later than January 1, 2024, the commission shall conduct a competitive solicitation
34 in order to select net energy billing resources for contracts under this section. For purposes
35 of this section, "net energy billing resource" means a distributed generation resource that
36 is the subject of a net energy billing arrangement under section 3209-A or 3209-B.

37 **1. Bid selection.** The commission shall select for a contract under this section any bid
38 relating to a net energy billing resource that the commission finds will result in substantial
39 savings to ratepayers as compared to the cost of the net energy billing resource remaining
40 in a net energy billing arrangement under section 3209-A or 3209-B. In reviewing bids
41 and establishing a contract price under this section, the commission shall determine and
42 consider the levelized cost of the energy that will be purchased under the contract.

1 **2. Contracts.** The commission shall direct an investor-owned transmission and
2 distribution utility in whose service territory a selected net energy billing resource is located
3 to enter into an appropriate long-term contract of up to 20 years with the bidder of that net
4 energy billing resource.

5 **3. Exclusive contract.** A net energy billing resource that is awarded a contract under
6 this section is ineligible for net energy billing under section 3209-A or 3209-B, and the
7 commission shall require all net energy billing arrangements or agreements to be
8 terminated as a condition of awarding a contract under this section.

9 **Sec. 14. 35-A MRSA §3209-E** is enacted to read:

10 **§3209-E. Net energy billing cost management**

11 **1. Definitions.** As used in this section, the following terms have the following
12 meanings.

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

15 B. "Net energy billing cost" means a cost borne by ratepayers that is determined by the
16 commission to be reasonably attributable to distributed generation resources
17 participating in net energy billing arrangements under section 3209-A or 3209-B.

18 C. "Opt-in program" means a program to reduce net energy billing costs in which a
19 distributed generation resource may elect to participate.

20 **2. Opt-in programs.** The commission may develop and implement one or more opt-
21 in programs in accordance with this section.

22 A. The commission shall conduct one or more proceedings to examine and evaluate
23 opt-in program designs, including, but not limited to, designs that include long-term
24 financial mechanisms and buy-down arrangements. In conducting an examination and
25 evaluation in accordance with this paragraph, the commission shall consult with the
26 Finance Authority of Maine and give preference to designs that enable the continued
27 development and operation of distributed generation resources.

28 B. After examining and evaluating opt-in programs under paragraph A, if the
29 commission finds the implementation of an opt-in program to be in the public interest,
30 the commission shall establish and implement the opt-in program by rule.

31 C. The commission may not require a distributed generation resource to participate in
32 an opt-in program established in accordance with this section.

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

36 **Sec. 15. 35-A MRSA §3474, sub-§1-A** is enacted to read:

37 **1-A. Conformance with commission purposes.** Notwithstanding any provision of
38 this Title to the contrary, the commission may adopt rules and develop policies consistent
39 with the purpose established in section 101 to govern the development of solar energy
40 generation resources that have a nameplate capacity of less than 5 megawatts and are
41 located in the service territory of a transmission and distribution utility in the State. Rules

1 adopted pursuant to this section are routine technical rules as defined in Title 5, chapter
 2 375, subchapter 2-A.

3 **Sec. 16. Distributed Solar and Energy Storage Program design.** In
 4 developing the Distributed Solar and Energy Storage Program established under the Maine
 5 Revised Statutes, Title 2, section 9, subsection 6-A, the Governor's Energy Office shall
 6 ensure that the program is designed to address the recommendations contained in the Final
 7 Report of the Distributed Generation Stakeholder Group dated January 6, 2023 and
 8 submitted by the office to the Joint Standing Committee on Energy, Utilities and
 9 Technology pursuant to Public Law 2021, chapter 390, section 4.

10 **Sec. 17. Appropriations and allocations.** The following appropriations and
 11 allocations are made.

12 **EXECUTIVE DEPARTMENT**

13 **Distributed Solar and Energy Storage Program N470**

14 Initiative: Provides allocations to establish the program.

15 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
16 All Other	\$500	\$500
17		
18 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>

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20 **EXECUTIVE DEPARTMENT**

21 **DEPARTMENT TOTALS**

22	2023-24	2024-25
23 OTHER SPECIAL REVENUE FUNDS	\$500	\$500
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25 DEPARTMENT TOTAL - ALL FUNDS	<u>\$500</u>	<u>\$500</u>

26 **PUBLIC UTILITIES COMMISSION**

27 **Public Utilities - Administrative Division 0184**

28 Initiative: Provides allocations for expenditures related to contracted consulting services
 29 and related STA-CAP.

30 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
31 All Other	\$385,735	\$0
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33 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$385,735</u>	<u>\$0</u>

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35 **PUBLIC UTILITIES COMMISSION**

36 **DEPARTMENT TOTALS**

37	2023-24	2024-25
38 OTHER SPECIAL REVENUE FUNDS	\$385,735	\$0
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40 DEPARTMENT TOTAL - ALL FUNDS	<u>\$385,735</u>	<u>\$0</u>

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1	SECTION TOTALS	2023-24	2024-25
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3	OTHER SPECIAL REVENUE FUNDS	\$386,235	\$500
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5	SECTION TOTAL - ALL FUNDS	\$386,235	\$500

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7 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
8 number to read consecutively.

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SUMMARY

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This amendment replaces the bill and changes the title and does the following.

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1. It establishes the Distributed Solar and Energy Storage Program to provide federal funds to foster continued growth of cost-effective distributed solar facilities and energy storage systems.

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2. It requires the Public Utilities Commission to provide data on distributed generation resources participating in net energy billing in the commission's annual report to the Legislature.

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3. Beginning September 1, 2023, it limits the number of customers who may share a financial interest in a distributed generation resource in the kilowatt-hour net energy billing program to 10 customers and requires that the distributed generation resource be located on the same side of the meter as one of the 10 customers and that at least 50% of the generation of credits associated with the output of the distributed generation resource be allocated to that customer.

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4. Beginning September 1, 2023, it limits the nameplate capacity of a distributed generation resource participating in the kilowatt-hour net energy billing program to 660 kilowatts unless the customer of the distributed generation resource is a municipality.

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5. It allows the commission to periodically review and alter the amount of compensation that a customer with a financial interest in a distributed generation resource may receive under the kilowatt-hour and tariff rate net energy billing programs.

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6. It allows the commission to modify the requirements of the kilowatt-hour and tariff rate net energy billing programs to the extent necessary for the State or a distributed generation resource to qualify for federal grants or subsidies that benefit ratepayers in this State.

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7. Beginning September 1, 2023, it limits the nameplate capacity of a distributed generation resource participating in the tariff rate net energy billing program to 660 kilowatts.

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8. Beginning September 1, 2023, it limits the number of customers who may share a financial interest in a distributed generation resource in the tariff rate net energy billing program to 10 customers and requires that the distributed generation resource be located on the same side of the meter as one of the 10 customers and that at least 50% of the generation of credits associated with the output of the distributed generation resource be allocated to that customer.

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1 9. It directs the commission to conduct a competitive solicitation in order to select
2 contracts for distributed generation resources that are the subject of a net energy billing
3 arrangement under the Maine Revised Statutes, section 3209-A or 3209-B. A distributed
4 generation resource selected for a contract as a result of this solicitation may not continue
5 to participate in a net energy billing arrangement.

6 10. It directs the commission to conduct one or proceedings to examine and evaluate
7 designs for programs to reduce net energy billing costs in which a distributed generation
8 resource may elect to participate, including, but not limited to, designs that include long-
9 term financial mechanisms and buy-down arrangements. If the commission finds the
10 implementation of a program to be in the public interest, the commission must establish
11 and implement the program.

12 11. It directs the commission to adopt rules and develop policies consistent with the
13 purpose of Title 35-A to govern the development of solar energy generation resources that
14 have a nameplate capacity of less than 5 megawatts.

15 **FISCAL NOTE REQUIRED**

16 **(See attached)**