

Community-Based Renewable Energy

This Act directs the state public utilities commission to set up a pilot program to encourage developing community-based renewable energy facilities. The Act permits the state public utilities commission to direct investor-owned transmission and distribution utilities to enter into long-term contracts for energy, capacity resources or renewable energy credits with program participants located within the service territory of the utility. The Act enables consumer-owned transmission and distribution utilities, at the option of the utility, to enter into long-term contracts for energy, capacity resources or renewable energy credits with program participants located within the service territory of the utility. The bill contains incentives to encourage state agencies to buy electricity for state buildings from community-based renewable energy projects.

This Act also directs the state public utilities commission to create a “green power offer” to promote using electricity generated by renewable resources, including electricity supplied by community-based renewable energy projects.

Submitted as:

Maine

[Public Law, Chapter 329, LD 1075](#)

Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “The Community-Based Renewable
2 Energy Act.”

3
4 Section 2. [*Definitions.*] As used in this Act, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 1. “Community-based renewable energy pilot program,” means the program created
7 under section 3 of this Act.

8 2. “Community-based renewable energy project” means a locally owned electricity
9 generating facility that generates electricity from an eligible renewable resource.

10 3. “Eligible renewable resource” means a renewable resource as defined in [insert
11 citation], except that “eligible renewable resource” does not include a generator fueled by
12 municipal solid waste in conjunction with recycling and does include a generator fueled by
13 landfill gas. “Eligible renewable resource” includes a biomass generator whose fuel includes
14 anaerobic digestion of agricultural products, byproducts or wastes.

15 4. “Locally owned electricity generating facility” means an electricity generating facility
16 at least [51%] of which is owned by one or more qualifying local owners.

17 5. “Program participant” means a community-based renewable energy project that is
18 participating in the Community-based Renewable Energy Pilot Program established in section 3
19 of this Act.

20 6. “Qualifying local owner” means a person or entity that is:

21 A. An individual who is a resident of the State;

22 B. A political subdivision of the State, including, but not limited to, a county,
23 municipality, quasi-municipal corporation or district as defined in [insert citation], school
24 administrative unit as defined in [insert citation], public or private institution of higher education,

25 regional council of governments or any other local or regional governmental organization,
26 including, but not limited to, a board, commission or association;

27 C. A department, agency, or instrumentality of the State;

28 D. A federally recognized Indian tribe located in the State;

29 E. A nonprofit corporation, organized under the laws of the State, including a unit
30 owners association organized [insert citation]; or

31 F. A business corporation, organized under the laws of the State, at least [51%] of
32 which is owned by one or more residents of the State.

33
34 Section 3. [*Community-based Renewable Energy Pilot Program.*]

35 (a) A community-based renewable energy pilot program is established to encourage the
36 sustainable development of community-based renewable energy in the State. The [state public
37 utilities commission] shall administer the community-based renewable energy pilot program.

38 (b) The [state public utilities commission] shall limit participation in the community-
39 based renewable energy pilot program in accordance with this subsection.

40 1. The installed generating capacity of a program participant may not exceed [10
41 megawatts].

42 2. The total installed generating capacity of all program participants combined
43 may not exceed [50 megawatts].

44 3. The total installed generating capacity of program participants within the
45 service territory of a single investor-owned transmission and distribution utility may not exceed
46 [25 megawatts], unless a higher capacity limit is authorized by the utility and approved by the
47 [state public utilities commission]. The [state public utilities commission] shall determine a
48 generating capacity limit for the service territory of each investor-owned transmission and
49 distribution utility at the outset of the program, taking into consideration the utility's electric load
50 and share of electricity market in the state. The [state public utilities commission] may modify
51 the generating capacity limit under this paragraph based on program experience.

52 4. A. Of the [50-megawatt] limit on total generating capacity under paragraph
53 2, [10 megawatts] must be reserved at the outset of the program for program participants that:

54 i. Have an installed generating capacity of less than [100
55 kilowatts]; or

56 ii. Are located in the service territory of a consumer-owned
57 transmission and distribution utility.

58 B. The [state public utilities commission] may modify the amount of
59 generating capacity reserved under this paragraph based on program experience.

60 5. The total installed generating capacity of program participants that receive the
61 renewable energy credit multiplier incentive under section 5 of this Act may not exceed [10
62 megawatts].

63
64 Section 4. [*Community-based Renewable Energy Pilot Program Eligibility Criteria.*]

65 (a) To be eligible to participate in the program, a community-based renewable energy
66 project must:

67 1. Provide documentation of a resolution of support passed by the municipal
68 legislative body or municipal officers, as appropriate, of the municipality in which the
69 community-based renewable energy project is proposed to be located, except that any project
70 that is proposed to be located wholly in an unorganized or de-organized area of the State or that
71 has a generating capacity of less than [100 kilowatts] is exempt from the requirement set forth in
72 this paragraph;

73 2. In the case of a community-based renewable energy project proposed to be
74 located on the tribal land or territory of a federally recognized Indian tribe in this State, including
75 any land owned by the tribe or held in trust by the United States for the tribe, provide
76 documentation that the tribe supports the community-based renewable energy project;

77 3. Be connected to the electric grid of this State;

78 4. Have an in-service date after [September 1, 2009]; and

79 5. Satisfy the limits on generating capacity established in section 3 of this Act.

80 (b) The [state public utilities commission] shall prescribe an application form or
81 procedure that must be used to apply to the program under this Act. The application form or
82 procedure must include any information that the [state public utilities commission] determines
83 necessary for the purpose of administering the program. The [state public utilities commission]
84 shall, within [30 days] of receipt of a completed application, determine whether a community-
85 based renewable energy project qualifies to participate in the program and respond in writing.

86
87 Section 5. [*Program Incentives.*] Subject to the requirements of section 3 (b) of this Act,
88 a program participant may elect one of the following program incentives:

89 1. A long-term contract for community-based renewable energy pursuant to
90 section 6 of this Act; or

91 2. The renewable energy credit multiplier pursuant to section 7 of this Act.

92
93 Section 6. [*Long-Term Contracts for Community-based Renewable Energy.*]

94 (a) Long-term contracts with program participants who elect the long-term contract for
95 community-based renewable energy pursuant to section 5 of this Act are governed by this
96 section.

97 (b) Notwithstanding [insert citation], the [state public utilities commission] may direct
98 investor-owned transmission and distribution utilities to enter into long-term contracts with
99 program participants located within the service territory of the utility for energy, capacity
100 resources or renewable energy credits. The [state public utilities commission] may direct
101 investor-owned transmission and distribution utilities to enter into contracts under this subsection
102 only as agents for their customers and only in accordance with this section. An investor-owned
103 transmission and distribution utility shall sell energy, capacity resources or renewable energy
104 credits purchased pursuant to this subsection into the wholesale electricity market or take other
105 action relative to such energy, capacity resources or renewable energy credits as directed by the
106 [state public utilities commission].

107 (c) A consumer-owned transmission and distribution utility may, at the option of the
108 utility, enter into long-term contracts with program participants located within the service
109 territory of the utility for energy, capacity resources, or renewable energy credits. Consumer-
110 owned transmission and distribution utilities may enter into contracts under this subsection only
111 as agents for their customers and only in accordance with this section.

112 (d) Energy, capacity resources or renewable energy credits contracted in long-term
113 contracts pursuant to this section may be sold into the wholesale electricity market in conjunction
114 with solicitations for standard-offer supply bids under [insert citation] or solicitations for green
115 power offer bids under [insert citation]. To the greatest extent possible, the [state public utilities
116 commission] shall develop procedures for long-term contracts for transmission and distribution
117 utilities under this section having the same legal and financial effect as the procedures used for
118 standard-offer service pursuant to [insert citation] for transmission and distribution utilities.

119 (e) A contract entered into pursuant to this section may not be for more than [20 years].

120 (f) The [state public utilities commission] shall ensure that in any contract entered into
121 pursuant to this section:

122 1. The average price per kilowatt-hour within each contract year does not exceed
123 [10¢]; and

124 2. The cost of the contract does not exceed the cost of the project plus a
125 reasonable rate of return on investment as determined by the [state public utilities commission].

126 (g) For program participants with a generating capacity of [one megawatt] or more, the
127 [state public utilities commission] shall, in accordance with this subsection, conduct competitive
128 solicitations for long-term contracts. The [state public utilities commission] shall require that
129 bids include full project cost disclosure. Following a review of bids received, the [state public
130 utilities commission] may negotiate with one or more potential suppliers. The [state public
131 utilities commission] shall negotiate contracts that are commercially reasonable and that commit
132 all parties to commercially reasonable behavior. In selecting program participants for contracting
133 pursuant to this subsection, the [state public utilities commission] shall select program
134 participants that are competitive and the lowest priced when compared to other available bids of
135 the same or similar contract duration or terms.

136 (h) 1. For program participants with a generating capacity of less than [one
137 megawatt], the [state public utilities commission] shall administer long-term contracts at prices
138 established by the [state public utilities commission] by rule. The [state public utilities
139 commission] shall, at a minimum, establish prices for energy generated by the following
140 renewable resources:

- 141 A. Wind power installations;
142 B. Solar arrays and installations; and
143 C. Any other renewable resource upon request of one or more community-
144 based renewable energy generators that use that resource.

145 2. The [state public utilities commission] shall establish prices under this
146 subsection based on an analysis of reasonable costs and may establish different prices for
147 different resources or technologies and different prices by time of generation in accordance with
148 that analysis.

149 (i) The [state public utilities commission] shall ensure that a transmission and distribution
150 utility recovers in rates all costs of contracts entered into under this section, including but not
151 limited to any effects on the utility's costs of capital. A price differential existing at any time
152 during the term of the contract between the contract price and the prevailing market price at
153 which the energy is sold must be reflected in rates and may not be considered to be imprudent.

154 (j) Contracts for capacity and related energy entered into pursuant to this section must
155 provide that payments will be made only after contracted amounts of energy have been provided.

156 (k) The [state public utilities commission] shall ensure mechanisms are established to
157 provide protections for ratepayers over the term of contracts entered into pursuant to this section.
158

159 Section 7. [*Renewable Energy Credit Multiplier.*] The value of a renewable energy credit
160 for electricity generated by a program participant that elects the renewable energy credit
161 multiplier as authorized under section 5 of this Act is [150% of the amount of the electricity].
162 When a program participant elects the renewable energy credit multiplier, the multiplier must be
163 accounted for when renewable energy credits are used to satisfy the portfolio requirements of
164 [insert citation].
165

166 Section 8. [*Regulatory Approvals; Use of Public Resources.*]

167 (a) The [state public utilities commission] shall adopt rules to implement this Act.

168 (b) The development, siting and operation of a community-based renewable energy
169 project is subject to all applicable regulatory reviews and approvals required by governmental

170 entities, including, but not limited to, municipalities and state agencies, pursuant to law,
171 ordinance or rule.

172 (c) Nothing in this Act limits the authority of the State or a political subdivision of the
173 State to use publicly owned land, water or facilities in the development and operation of a
174 community-based renewable energy project or to lease publicly owned land, water or facilities to
175 other qualifying owners for the development and operation of a community-based renewable
176 energy project.

177 (d) Community-based renewable energy projects, as defined in section 2 of this Act, may
178 apply for funding from a trust established under [insert citation] as nonelectric savings programs.
179

180 Section 9. [*Electricity Purchases for State Buildings.*] In purchasing electricity for state-
181 owned buildings, the State may give preference to electricity generated by community-based
182 renewable energy projects as defined in section 2 of this Act.
183

184 Section 10. [*Reporting.*]

185 (a) No later than [February 15, 2010], the [state public utilities commission] shall submit
186 an interim progress report to the [joint standing committee on utilities and energy] regarding the
187 development and implementation of the community-based renewable energy pilot program
188 pursuant to this Act, including, but not limited to:

189 1. Rulemaking undertaken by the [state public utilities commission] pursuant to
190 this Act, including, but not limited to, rulemaking to establish prices for long-term contracts for
191 program participants with a generating capacity of less than [one megawatt] pursuant to this Act;

192 2. The development of contract terms and conditions for long-term contracts
193 under this Act, and

194 3. The number and types of projects that have expressed interest in the program to
195 date, based on inquiries and applications made to the [state public utilities commission].

196 (b) The [state public utilities commission] shall develop and administer a system to
197 register and track the development of community-based renewable energy projects and by
198 [January 15, 2011 and biennially by January 15th thereafter] shall report to the [joint standing
199 committee of the Legislature having jurisdiction over utilities and energy matters] on the
200 program and the development of community-based renewable energy projects. The report must
201 include, but is not limited to:

202 1. Documentation of the progress of community-based renewable energy
203 development, including the number of community-based renewable energy projects in the State,
204 the generating capacity of those projects and the kilowatt-hours of electricity purchased from
205 community-based renewable energy projects; and

206 2. Actions taken by the [state public utilities commission] to implement the
207 program, an assessment of the effectiveness of the program with respect to encouraging the
208 sustainable development of community-based renewable energy in the State and
209 recommendations, including any necessary implementing legislation, to improve the program.

210 (c) In the report due [January 15, 2011] the [state public utilities commission] shall also
211 report policy options, including but not limited to financial incentives, to encourage the
212 development of community-based renewable energy projects in economically disadvantaged
213 areas of the State. For the purposes of this section, “economically disadvantaged areas” includes,
214 but is not limited to, communities, counties and other geographic areas of the State in which the
215 average weekly wage is below the state average weekly wage or the unemployment rate is
216 greater than the state unemployment rate.
217

218 Section 11. [*Community-based Renewable Energy.*] The [state public utilities

219 commission] may incorporate energy generated by community-based renewable energy projects
220 as defined in section 2 of this Act into the supply of standard-offer service as defined in [insert
221 citation]. The [state public utilities commission] shall encourage entities based in this State that
222 are not otherwise either a standard-offer service provider or its affiliate to participate in
223 supplying energy from community-based renewable energy projects pursuant to this Act.

224

225 Section 12. [*Green Power Offer.*]

226 (a) The [state public utilities commission] shall arrange a “green power offer” that is
227 composed of “green power supply” in accordance with this section. Except as provided in this
228 section, the [state public utilities commission] shall ensure that the green power offer is available
229 to all residential and small commercial electricity customers, as defined by the [state public
230 utilities commission], and shall administer a competitive bid process to select a green power
231 offer provider or providers for the service territory of a transmission and distribution utility.

232 (b) For purposes of this section, “green power supply” means electricity or renewable
233 energy credits for electricity generated from renewable capacity resources as defined in [insert
234 citation] from a generator fueled by landfill gas, including electricity generated by community-
235 based renewable energy projects as defined in section 2 of this Act. “Green power supply”
236 includes a biomass generator, whose fuel may include, but is not limited to, anaerobic digestion
237 of agricultural products, byproducts or wastes.

238 (c) The green power offer must be in addition to existing standard-offer service under
239 [insert citation].

240 (d) The [state public utilities commission] shall, to the maximum extent possible:

241 (1) Incorporate power supplied from community-based renewable energy projects
242 as defined in section 2 of this Act into the green power offer; and

243 (2) Encourage community-based renewable energy projects to supply power for
244 the green power offer.

245 (e) The green power offer may include incidental amounts of electricity supply that do
246 not meet the definition of green power supply if the [state public utilities commission]
247 determines that including such electricity supply is necessary to ensure that a green power offer
248 provider can meet its retail load obligation.

249 (f) The [state public utilities commission] shall, in accordance with [insert citation],
250 inform residential and small commercial consumers of electricity in this State of the opportunity
251 to purchase the green power offer.

252 (g) The [state public utilities commission] is not required to arrange for a green power
253 offer in the event that the [state public utilities commission] receives no bids to provide the green
254 power offer in a transmission and distribution utility's territory, determines that the bids it
255 receives are inadequate or unacceptable, or determines, based on prior experience arranging for a
256 green power offer in a utility's territory, that it is reasonably likely that it will not receive any
257 adequate or acceptable bids.

258 (h) The [state public utilities commission] is not required to arrange for a green power
259 offer for the territory of a consumer-owned transmission and distribution utility. If the
260 [commission] arranges standard-offer service for a consumer-owned transmission and
261 distribution utility, the consumer-owned transmission and distribution utility may elect to have
262 the commission arrange a green power offer in accordance with this subsection. A consumer-
263 owned transmission and distribution utility may establish a green power offer through a
264 competitive bidding process conducted in accordance with the [state public utilities commission]
265 rules governing the selection of a green power offer provider under this section.

266 (i) Beginning [insert date], information about the availability of the green power offer
267 and of green power supply products and renewable energy credit products that are certified by

268 the [state public utilities commission] may, at the option of the provider of the offer or the
269 product, and with the cooperation of the transmission and distribution utility, be presented
270 through inserts in customer bills issued by transmission and distribution utilities. The costs of the
271 inserts, including but not limited to printing and postage costs, are the responsibility of the
272 provider of the offer or product. The [commission] may define the criteria for certification of
273 green power supply products and renewable energy credit products by order or by rule, and the
274 [commission] may limit the criteria for certification for consumer protection and eligibility
275 verification purposes.

276 (j) The [state public utilities commission] shall adopt rules to implement this section of
277 this Act.

278

279 Section 13. [*Severability.*] [Insert severability clause.]

280

281 Section 14. [*Repealer.*] [Insert repealer clause.]

282

283 Section 15. [*Effective Date.*] [Insert effective date.]