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.)

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

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

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

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

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

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

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

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

   A. An individual who is a resident of the State;
   
   B. A political subdivision of the State, including, but not limited to, a county, municipality, quasi-municipal corporation or district as defined in [insert citation], school administrative unit as defined in [insert citation], public or private institution of higher education,
regional council of governments or any other local or regional governmental organization, including, but not limited to, a board, commission or association;

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

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

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

F. A business corporation, organized under the laws of the State, at least \(51\%\) of which is owned by one or more residents of the State.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Provide documentation of a resolution of support passed by the municipal legislative body or municipal officers, as appropriate, of the municipality in which the community-based renewable energy project is proposed to be located, except that any project that is proposed to be located wholly in an unorganized or de-organized area of the State or that has a generating capacity of less than [100 kilowatts] is exempt from the requirement set forth in this paragraph;
2. In the case of a community-based renewable energy project proposed to be located on the tribal land or territory of a federally recognized Indian tribe in this State, including any land owned by the tribe or held in trust by the United States for the tribe, provide documentation that the tribe supports the community-based renewable energy project;

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The [state public utilities commission] shall ensure that in any contract entered into pursuant to this section:
1. The average price per kilowatt-hour within each contract year does not exceed $10\text{c}$; and

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

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

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

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

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

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

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

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

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

Section 8. Regulatory Approvals; Use of Public Resources.

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

(b) The development, siting and operation of a community-based renewable energy project is subject to all applicable regulatory reviews and approvals required by governmental
entities, including, but not limited to, municipalities and state agencies, pursuant to law, ordinance or rule.

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

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

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

Section 10. [Reporting.]

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

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

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

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

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

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

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

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

Section 11. [Community-based Renewable Energy.] The [state public utilities commission]
commission] may incorporate energy generated by community-based renewable energy projects as defined in section 2 of this Act into the supply of standard-offer service as defined in [insert citation]. The [state public utilities commission] shall encourage entities based in this State that are not otherwise either a standard-offer service provider or its affiliate to participate in supplying energy from community-based renewable energy projects pursuant to this Act.

Section 12. [Green Power Offer.]

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

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

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

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

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

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

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

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

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

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

(i) Beginning [insert date], information about the availability of the green power offer and of green power supply products and renewable energy credit products that are certified by
the [state public utilities commission] may, at the option of the provider of the offer or the product, and with the cooperation of the transmission and distribution utility, be presented through inserts in customer bills issued by transmission and distribution utilities. The costs of the inserts, including but not limited to printing and postage costs, are the responsibility of the provider of the offer or product. The [commission] may define the criteria for certification of green power supply products and renewable energy credit products by order or by rule, and the [commission] may limit the criteria for certification for consumer protection and eligibility verification purposes.

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

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

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

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