

95-648 Efficiency Maine Trust

94-468 Maine Efficiency Trust	
2024-076: Chapter 3, Electric Efficiency and Conservation Programs	
Statutory Authority:	35-A M.R.S. §§ 10102,10103, 10104, 10105, 10106, 10109, 10110
Type:	Routine Technical
Emergency?:	No
Fiscal impact:	No change
Principal purpose:	<i>In June of 2023, the Legislature passed L.D. 1724 – An Act to Enact the Beneficial Electrification Policy Act (the Act). The Act amends the statute governing the activities of the Efficiency Maine Trust (the Trust), with principal changes appearing at 35-A M.R.S.A. §10104 and §10110. The purpose of this proposed rule is to update the Trust’s existing rule to reflect the changes to statute resulting from the Act and to describe key elements of how cost-effective beneficial electrification measures will be considered in evaluations of maximum achievable cost-effective resources in the Trust’s Triennial Plan. A secondary purpose of this proposed rule is to update language in the rule to reflect amendments to 35-A M.R.S.A. §10104 and §10110 made under other recent enactments of the Legislature. These enactments included updates to language that describes goals that the Trust must advance in its triennial plans and criteria for the Trust’s electric conservation programs.</i>
Basis Statement:	<p><i>I. Summary</i></p> <p><i>This statement presents the factual and policy basis for the amendments to Chapter 3 – the Rule for Electric Efficiency and Conservation Programs of the Efficiency Maine Trust (the Trust). The rule was approved by vote of the Board of Trustees on February 28, 2024.</i></p> <p><i>II. Background</i></p> <p><i>In June 2023, the Legislature passed L.D. 1724, An Act to Enact the Beneficial Electrification Policy Act (PL 2023, c. 328, or the Act). The Act amends the statute governing the activities of the Trust, with principal changes appearing at 35-A M.R.S.A. § 10104 and § 10110. The Act directs the Trust to plan and implement programs to advance the policy of beneficial electrification. In furtherance of this goal, the Act requires the inclusion of certain cost-effective beneficial electrification measures in the determination of maximum achievable cost-effective (MACE) electric energy efficiency resources in the Trust’s Triennial Plan. In this rulemaking, the Trust proposed amendments to Chapter 3 of the Trust’s rules reflect the changes to the statute and explain how the Trust will determine the extent to which cost-effective beneficial electrification measures should be included among the MACE electric energy efficiency resources to be factored into the Trust’s Triennial Plan budgets.</i></p> <p><i>In recent years, the Legislature has enacted other amendments to sections of 35-A M.R.S.A. § 10104 and § 10110 describing general objectives of the Trust’s conservation programs. These enactments include the codification of certain goals of the State’s climate action plan as well as updates to criteria for the Trust’s electric conservation programs. Amendments to Chapter 3 also update the rule to reflect these amendments to the statute.</i></p> <p><i>Over the past year, the Trust researched and vetted approaches to implement the requirements of the Act. The Trust reviewed the regulation of funding for beneficial</i></p>

electrification measures in other jurisdictions with the assistance of third-party experts and discussed its proposed approach with relevant stakeholders. The Trust submitted an official rulemaking proposal package to the Secretary of State on November 21, 2023. The Public Notice of Rulemaking Proposal was first published online and in local newspapers on November 29, 2023 and was emailed, with a link to a Trust webpage hosting the proposed rule text, to the contacts who receive notices of all official Board meetings and to other interested parties. A winter storm required the postponement of a public hearing scheduled for December 19, 2023. To provide notice of the rescheduled public hearing and of an extension in the deadline for parties to submit written comments, the Trust submitted an updated rulemaking proposal package to the Secretary of State on December 21, 2023. The updated Public Notice of Rulemaking Proposal was published online and in local newspapers on December 27, 2023, and was again emailed to contacts who receive notices of all Board hearings and to other interested parties. The Trust held a public hearing on January 16, 2024 and accepted written comments through January 26, 2024.

A written summary of the comments the Trust received is provided as an attachment to this statement of factual and policy basis.

III. Summary of Key Elements

A. Definitions

Section 2 of the amended rule incorporates the definition of “Beneficial Electrification” provided in 35-A M.R.S.A. § 10102(3-A), as amended by the Act. The definition, applied to the rule directly from the statute, identifies the scope of activities that may be considered beneficial electrification. The amended rule also adds to the term “beneficial electrification” the definition of “Triennial Plan” included in subsection I. This addition reflects the Act’s elevation of support for beneficial electrification as an organizing purpose for the Trust’s activities. A clarifying edit to “Maximum Achievable Cost-Effective Energy Conservation (MACE)” reflects the Act’s directive that, for beneficial electrification measures, the Trust shall account for all net energy costs including savings from avoided fuels displaced by the measure.

B. Conservation Programs

Amendments to Section 3 align the rule with recent revisions to the statute articulating general criteria and goals for Trust programs. Updates to subsection A(1)(d) align the rule with 35-A M.R.S.A. § 10110(2)(A)(4), as amended by PL 2021, c. 298, An Act to Advance Energy Storage in Maine. New subsection A(1)(f) is added to the rule in accordance the addition to the statute of new part 35-A M.R.S.A. § 10104(2)(E). Amendments to subsection B update the rule to reflect the current language in 35-A M.R.S.A. § 10110(F), as revised by PL 2021, c. 209, An Act To Resolve Conflicts in and Make Other Changes to the Laws Governing the Efficiency Maine Trust, and by PL 2021 c. 693, An Act To Transition State and Local Motor Vehicle Fleets to Plug-in Hybrid Vehicles and Zero-emission Vehicles.

C. Cost Effectiveness

The amended rule makes no change to the structure of the cost-effectiveness test for the Trust's Electric Efficiency and Conservation Programs. Amendments to subsection 4(A)(1)(b) align the description of the determination of "benefits" associated with avoided transmission and distribution costs with the approach the Trust already employs. This approach is consistent with 35-A M.R.S.A. § 10110(4-A)(B), as amended by PL 2019, c. 313. This 2019 legislation had provided additional direction regarding the development and application of avoided costs in evaluations of electric MACE.

Pursuant to the requirements of Section 8 of the Act, the updated rule amends the benefits that must be considered in assessments of the cost-effectiveness of beneficial electrification measures. The amended subsection 4(A)(1)(c) clarifies that, for the purposes of beneficial electrification measures only, determinations of measure cost-effectiveness shall account for all net energy costs, including savings associated with fuels displaced by the measure. This amendment applies language directly from Section 8 of the Act.

D. Funding

Amendments to subsection 5 of Chapter 3 explain how the Trust will implement the Act's requirements for the inclusion of beneficial electrification measures in the determination of MACE electric energy efficiency resources. The amended rule retitles subsection 5(B) and divides it into parts to improve clarity. The amendment to subsection 5(B) reorders existing language from the rule to offer a consolidated description of the approach the Trust must take in preparing budgets in the development of Triennial Plans. These amendments do not change the operation of the existing rule. New subsection 5(C) amends the current rule to incorporate language from the Act describing the beneficial electrification measures that must be included in the determination of MACE resources. As articulated in new subsection 5(C)(4), only those beneficial electrification measures that are cost-effective and that reliability reduce electricity rates over the life of the measures shall be included in determinations of MACE resources. Beneficial electrification measures that either fail to screen for cost-effectiveness or that fail to be determined to reliably reduce electricity rates cannot be included in budgets for MACE electric efficiency opportunity.

While subsection 3 of the Trust's rules already provides a structure for the assessment of cost-effectiveness of individual measures, a new methodology is required to assess whether a measure will reliably reduce electricity rates over the life of the measure. New subsection 5(D) outlines the Trust's approach to conducting this assessment. It also describes the specific steps by which a calculation will compare the net present value of those revenues and costs collected in transmission and distribution (T&D) rates that are attributable to a measure over that measure's useful life. The amended rule identifies three categories of such revenues and costs:

- *Changes in utility revenue collected in T&D rates attributable to whether*

the measure results in the addition or removal of electricity load;

- *Changes in utility costs resulting from the marginal impact of the measure on T&D system costs. This language is consistent with the update to subsection 4(A)(1)(b), which describes how avoided transmission and distribution costs shall be considered for the purposes of the benefit-cost test; and,*

- *The Trust's costs incurred to offer a financial incentive and to administer a program to offer that incentive, where those costs are included in the electric efficiency procurement collected from ratepayers.*

Subsection 5(D)(2) clarifies that the measure life over which revenues and costs are compared will be drawn from the Trust's Technical Reference Manuals. Only those beneficial electrification measures for which the net present value of the change in utility revenues exceeds the net present value of the change in utility costs over the life of those measures are included in the determination of MACE resources.

IV. FISCAL AND ECONOMIC EFFECTS

"Fiscal Impact" is defined in Maine statute as "the estimated cost to municipalities and counties for implementing or complying with the proposed rule." Following guidance in Maine statute, the Trust expects no fiscal impact on municipalities or counties and indicated this finding in the proposed rule.

V. RULEMAKING PROCEDURES

Pursuant to 35-A M.R.S.A. § 10208, this rule is considered to be a "routine technical rule" as defined in Title 5, chapter 375, subchapter 2-A.

On a motion duly made and seconded, the Board approved the following decision and directions:

- 1. That Chapter 3, Electric Efficiency and Conservation Programs, amended as described in this memorandum, is hereby adopted;*

- 2. That the Executive Director shall submit the adopted rule and related materials to the Attorney General for review and authorization;*

- 3. That the Executive Director shall notify the following of the adoption of the rule:*

- a. All transmission and distribution utilities in the State;*

- b. All persons who attended the public hearing and commented in this Rulemaking.*