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Public Law
123rd Legislature
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Chapter 293
H.P. 224 - L.D. 268

**An Act Regarding the Long-term Contracting
Authority of the Public Utilities Commission**

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

Sec. 1. 35-A MRSA §3210-C, sub-§1, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Capacity resource" means any renewable capacity resource, nonrenewable capacity resource or new interruptible, demand response or energy efficiency capacity resource.

B. "Interruptible, demand response or energy efficiency capacity resource" means a resource that has demand response, interruptible or energy efficiency capacity recognized by the commission.

C. "New" as applied to any capacity resource means a capacity resource that:

(1) Has an in-service date after September 1, 2005;

(2) Was added to an existing facility after September 1, 2005;

(3) For at least 2 years was not operated or was not recognized by the New England independent system operator as a capacity resource and, after September 1, 2005, resumed operation or was recognized by the New England independent system operator as a capacity resource; or

(4) Was refurbished after September 1, 2005 and is operating beyond its previous useful life or is employing an alternate technology that significantly increases the efficiency of the generation process.

D. "Nonrenewable capacity resource" means an electric generation resource other than a renewable capacity resource.

E. "Renewable capacity resource" means a renewable resource, as defined in section 3210, subsection 2, paragraph C, except the maximum total power production capacity limit of 100 megawatts under section 3210, subsection 2, paragraph C does not apply and "renewable capacity resource" does not include:

(1) A generator fueled by municipal solid waste in conjunction with recycling; or

(2) A hydroelectric generator unless it meets all state and federal fish passage requirements applicable to the generator.

Sec. 2. 35-A MRSA §3210-C, sub-§3, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

3. Commission authority. The commission may direct large investor-owned transmission and distribution utilities to enter into long-term contracts for:

A. Capacity resources; and

B. Any available energy associated with capacity resources contracted under paragraph A:

(1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

(2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service pursuant to section 3212. If contracts are entered into Available energy contracted pursuant to this subparagraph, the contracts must be treated as standard-offer service contracts pursuant to section 3212 may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids.

The commission may direct large 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. To the greatest extent possible, the commission shall develop procedures having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for large investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent.

Capacity resources contracted under this subsection may not exceed the amount necessary to ensure the reliability of the electric grid of this State or to lower customer costs as determined by the commission pursuant to rules adopted under subsection 10.

Unless the commission determines the public interest requires otherwise, a capacity resource may not be contracted under this subsection unless the commission determines that the capacity resource is recognized as a capacity resource for purposes of any regional or federal capacity requirements.

Sec. 3. 35-A MRSA §3210-C, sub-§4, ¶A, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

A. The commission shall select capacity resources that are competitive and the lowest price when compared to other available offers for capacity resources of the same or similar contract duration or terms. ~~The commission shall consider the cost of the capacity and the cost of related energy. The commission shall, by rules adopted pursuant to subsection 10, establish a methodology for calculating and considering the cost of related energy for capacity-only offers.~~

Sec. 4. 35-A MRSA §3210-C, sub-§7, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

7. Disposition of resources. A large investor-owned transmission and distribution utility shall sell capacity resources and energy purchased pursuant to subsection 3 or take other action relative to such capacity resources and energy as directed by the commission.

Effective September 20, 2007