

## CHAPTER 36-A

### WOOD-FIRED COMBINED HEAT AND POWER ACT

#### §3621. Short title

This chapter may be known and cited as "the Wood-fired Combined Heat and Power Act." [PL 2021, c. 604, §3 (NEW).]

#### SECTION HISTORY

PL 2021, c. 604, §3 (NEW).

#### §3622. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 604, §3 (NEW).]

**1. Combined heat and power project.** "Combined heat and power project" means a facility that uses wood fuel to generate electric heat and power that is used for industrial or space heating purposes. [PL 2021, c. 604, §3 (NEW).]

**2. Net generating capacity.** "Net generating capacity" means the electric output of an electricity generating facility delivered to the transmission and distribution utility system. "Net generating capacity" does not include any energy consumed by the generator to operate the electricity generating facility, energy provided behind the meter to facilities adjacent to the electricity generating facility or any energy consumed for facility lighting, power and auxiliary facilities. [PL 2023, c. 353, §2 (AMD).]

**3. Program participant.** "Program participant" means a combined heat and power project that is participating in the combined heat and power program established in section 3623. [PL 2021, c. 604, §3 (NEW).]

**4. Wood fuel.** "Wood fuel" means biomass derived from:

A. Forest products manufacturing residuals, including, but not limited to, mill chips, sawdust, bark, shavings and fines; [PL 2021, c. 604, §3 (NEW).]

B. Harvest residues, including trees or portions of harvested trees that are too small or of too poor quality to be used for wood products; or [PL 2021, c. 604, §3 (NEW).]

C. Downed trees from weather events and natural disasters, nonhazardous landscape or right-of-way trimmings and plant material removed for purposes of invasive species control. [PL 2021, c. 604, §3 (NEW).]

[PL 2021, c. 604, §3 (NEW).]

#### SECTION HISTORY

PL 2021, c. 604, §3 (NEW). PL 2023, c. 353, §2 (AMD).

#### §3623. Combined heat and power program

**1. Program established.** The combined heat and power program, referred to in this chapter as "the program," is established to encourage the development in the State of combined heat and power projects that will promote the climate action plan developed in accordance with Title 38, section 577, subsection 1. The program is administered by the commission.

[PL 2021, c. 604, §3 (NEW).]

**2. Program scope; limits on net generating capacity.** The commission shall limit participation in the program in accordance with this subsection.

A. The net generating capacity of a program participant may not be less than 3 megawatts or more than 15 megawatts. [PL 2023, c. 353, §3 (AMD).]

B. The total net generating capacity of all program participants combined may not exceed 30 megawatts.

The commission may modify the amount of total net generating capacity stipulated under this paragraph based on program experience. [PL 2023, c. 353, §4 (AMD).]  
[PL 2023, c. 353, §§3, 4 (AMD).]

**3. Program eligibility criteria.** To be eligible to participate in the program, a combined heat and power project must:

A. Be connected to the electric grid of this State; [PL 2021, c. 604, §3 (NEW).]

B. Have an in-service date after November 1, 2022; [PL 2021, c. 604, §3 (NEW).]

C. Satisfy the limits on net generating capacity established in subsection 2, paragraph A; [PL 2021, c. 604, §3 (NEW).]

D. Be highly efficient, as determined by the commission on a technology-specific basis; and [PL 2023, c. 353, §5 (AMD).]

E. Not be a participant in net energy billing under section 3209-A or 3209-B. [PL 2021, c. 604, §3 (NEW).]

The commission shall prescribe an application form or procedure that must be used to apply to the program under this chapter, which must include any information that the commission determines necessary for the purpose of administering the program. The commission shall inform an applicant, within 30 days of receipt of an application, if the application is complete. The commission shall determine whether the combined heat and power project qualifies for participation in the program as soon as practicable and respond in writing.

[PL 2023, c. 353, §5 (AMD).]

## SECTION HISTORY

PL 2021, c. 604, §3 (NEW). PL 2023, c. 353, §§3-5 (AMD).

### §3624. Long-term contracts for combined heat and power

#### **1. Investor-owned transmission and distribution utilities; required participation.**

Notwithstanding section 3204, the commission may direct an investor-owned transmission and distribution utility to enter into long-term contracts for energy with one or more program participants if the program participant is:

A. Located within the service territory of the investor-owned transmission and distribution utility; or [PL 2023, c. 353, §6 (NEW).]

B. Located within the service territory of a consumer-owned transmission and distribution utility if:

(1) The program participant delivers energy to a location within the service territory of the investor-owned transmission and distribution utility;

(2) The program participant does not sell energy to the consumer-owned transmission and distribution utility in whose territory the program participant is located; and

(3) The consumer-owned transmission and distribution utility consents to the sale and transmission of that energy pursuant to a long-term contract. [PL 2023, c. 353, §6 (NEW).]

The 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 pursuant to this subsection into the wholesale electricity market or take other action relative to that energy directed by the commission.

[PL 2023, c. 353, §6 (RPR).]

**2. Consumer-owned transmission and distribution utilities; voluntary participation.** A consumer-owned transmission and distribution utility may, at the option of the utility, enter into long-term contracts with one or more program participants located within the service territory of the utility for energy. 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.

[PL 2023, c. 353, §7 (AMD).]

**3. Sale of energy; contract procedures.** Energy contracted through long-term contracts pursuant to this section may be sold into the wholesale electricity market separately or in conjunction with solicitations for standard-offer supply bids under section 3212 or solicitations for green power offer bids under section 3212-B. To the greatest extent possible, the 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 section 3212 for transmission and distribution utilities.

[PL 2023, c. 353, §8 (AMD).]

**4. Contract term.** A contract entered into pursuant to this section may not be for more than 20 years.

[PL 2021, c. 604, §3 (NEW).]

**5. Contract pricing; cost containment.** The commission shall solicit contract bids under the program. In selecting contracts, the commission shall weigh the characteristics of a proposed combined heat and power project as follows:

A. A weight of 30% must be given to the combined efficiency of the electricity generation and heat utilization of the project; [PL 2021, c. 604, §3 (NEW).]

B. A weight of 40% must be given to the total cost of the project; and [PL 2021, c. 604, §3 (NEW).]

C. A weight of 30% must be given to the following factors:

(1) The design of the project to meet the State's waste reduction and diversion priorities established by Title 38, section 2101, including, but not limited to, the proximity of the project to wood fuel derived from forest products manufacturing residuals;

(2) The location of the project and whether electricity generated will meet a demand for electricity;

(3) The net greenhouse gas emissions from the project, as determined in consultation with the Department of Environmental Protection;

(4) The economic impact to the State from the project, including, but not limited to, jobs the project will create and maintain in wood fuel supply, at the electric generation plant and at the facility using the heat;

(5) Whether the generation of electricity most effectively accounts for the changing seasonal time of day and other electricity usage characteristics associated with beneficial electrification as defined in section 10102, subsection 3-A over the duration of the contract; and

(6) The effect on other Class I resources and Class IA resources, as defined in section 3210, subsection 2. [PL 2021, c. 604, §3 (NEW).]

The commission may not direct an investor-owned transmission and distribution utility to enter into a long-term contract under this chapter in which the contract price for energy exceeds 10 cents per kilowatt-hour.

If at the close of the competitive bidding process under this subsection the commission determines that no proposal meets the requirements of the solicitation or that an approval is not in the public interest, the commission may reject all proposals and may open a new competitive bidding process.

[PL 2021, c. 604, §3 (NEW).]

**6. Cost and benefit allocation.** The commission shall ensure that all costs and benefits associated with contracts involving investor-owned transmission and distribution utilities entered into under this section are allocated to electricity consumers in accordance with section 3210-F.

[PL 2021, c. 604, §3 (NEW).]

**7. Contract payments.** Contracts for energy entered into pursuant to this section must provide that payments will be made only after contracted amounts of energy have been provided.

[PL 2023, c. 353, §9 (AMD).]

**8. Ratepayer protection.** The commission shall ensure that mechanisms are established to provide protections for ratepayers over the term of contracts entered into pursuant to this section.

[PL 2021, c. 604, §3 (NEW).]

#### SECTION HISTORY

PL 2021, c. 604, §3 (NEW). PL 2023, c. 353, §§6-9 (AMD).

#### §3625. Rules

The commission may adopt rules to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 604, §3 (NEW).]

#### SECTION HISTORY

PL 2021, c. 604, §3 (NEW).

#### §3626. Tracking; biennial report

The commission shall develop and administer a system to register and track the development of combined heat and power projects under this chapter and by January 15, 2023, and biennially 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 combined heat and power projects. The report must include, but is not limited to: [PL 2021, c. 604, §3 (NEW).]

**1. Combined heat and power project development.** Documentation of the progress of combined heat and power project development, including the number of such projects in the State, the net generating capacity of those projects and the kilowatt-hours of electricity purchased from those projects; and

[PL 2021, c. 604, §3 (NEW).]

**2. Program implementation; assessment; recommendations.** Actions taken by the commission to implement the program, an assessment of the effectiveness of the program with respect to encouraging the sustainable development of combined heat and power projects in the State and recommendations, including any necessary implementing legislation, to improve the program.

[PL 2021, c. 604, §3 (NEW).]

#### SECTION HISTORY

PL 2021, c. 604, §3 (NEW).

#### §3627. Regulatory approvals; use of public resources

**1. Regulatory approval.** The development, siting and operation of a combined heat and power 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. [PL 2021, c. 604, §3 (NEW).]

**2. Use of publicly owned land, water or facilities.** Nothing in this chapter 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 combined heat and power project or to lease publicly owned land, water or facilities to other qualifying owners for the development and operation of a combined heat and power project. [PL 2021, c. 604, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 604, §3 (NEW).

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