35-A §3601. SHORT TITLE

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

This chapter may be known and cited as "the Community-based Renewable Energy Act." [2009, c. 329, Pt. A, §4 (NEW).]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW).

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35-A §3602. DEFINITIONS

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 329, Pt. A, §4 (NEW).]

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

[2009, c. 329, Pt. A, §4 (NEW) .]

2. Eligible renewable resource. "Eligible renewable resource" means a renewable capacity resource as defined in section 3210, subsection 2, paragraph B-3.

[2009, c. 542, §8 (AMD) .]

3. Locally owned electricity generating facility. "Locally owned electricity generating facility" means an electricity generating facility at least 51% of which is owned by one or more qualifying local owners.

[2009, c. 329, Pt. A, §4 (NEW) .]

4. Program participant. "Program participant" means a community-based renewable energy project that is participating in the community-based renewable energy pilot program established in section 3603.

[2009, c. 329, Pt. A, §4 (NEW) .]

5. Qualifying local owner. "Qualifying local owner" means a person or entity that is:

A. An individual who is a resident of the State; [2009, c. 329, Pt. A, §4 (NEW).]

B. A political subdivision of the State, including, but not limited to, a county, municipality, quasi-municipal corporation or district as defined in Title 30-A, section 2351, school administrative unit as defined in Title 20-A, section 1, 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; [2009, c. 329, Pt. A, §4 (NEW).]

C. A department, agency or instrumentality of the State; [2009, c. 329, Pt. A, §4 (NEW).]

D. A federally recognized Indian tribe located in the State; [2009, c. 329, Pt. A, §4 (NEW).]

E. A nonprofit corporation, organized under the laws of the State, including a unit owners association organized under Title 33, section 1603-101; or [2009, c. 329, Pt. A, §4 (NEW).]

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. [2009, c. 329, Pt. A, §4 (NEW).]

[2009, c. 329, Pt. A, §4 (NEW) .]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW). 2009, c. 542, §8 (AMD).

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35-A §3603. COMMUNITY-BASED RENEWABLE ENERGY PILOT PROGRAM

35-A §3603. COMMUNITY-BASED RENEWABLE ENERGY PILOT PROGRAM

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

1. **Program established.** The community-based renewable energy pilot program, referred to in this section as "the program," is established to encourage the sustainable development of community-based renewable energy in the State. The program is administered by the commission.

[2009, c. 329, Pt. A, §4 (NEW) .]

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

A. The installed generating capacity of a program participant may not exceed 10 megawatts. [2009, c. 329, Pt. A, §4 (NEW).]

B. The total installed generating capacity of all program participants combined may not exceed 50 megawatts. [2009, c. 329, Pt. A, §4 (NEW).]

C. 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 commission. The 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 commission may modify the generating capacity limit under this paragraph based on program experience. [2009, c. 329, Pt. A, §4 (NEW).]

D. Of the 50-megawatt limit on total generating capacity under paragraph B, 10 megawatts must be reserved at the outset of the program for program participants that:

(1) Have an installed generating capacity of less than 100 kilowatts; or

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

The commission may modify the amount of generating capacity reserved under this paragraph based on program experience. [2009, c. 329, Pt. A, §4 (NEW).]

E. The total installed generating capacity of program participants that receive the renewable energy credit multiplier incentive under section 3605 may not exceed 10 megawatts. [2009, c. 329, Pt. A, §4 (NEW).]

[2009, c. 329, Pt. A, §4 (NEW) .]

3. **Program eligibility criteria.** To be eligible to participate in the program, a community-based renewable energy project must:

A. Provide documentation of a resolution of support passed by the municipal legislative body or by the municipal officers, if the municipal legislative body has delegated this authority to the municipal officers, 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 deorganized 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; [2009, c. 565, §5 (AMD).]

B. 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; [2009, c. 329, Pt. A, §4 (NEW).]

C. Be connected to the electric grid of this State; [2009, c. 329, Pt. A, §4 (NEW).]

35-A §3604. LONG-TERM CONTRACTS FOR COMMUNITY-BASED RENEWABLE ENERGY

35-A §3604. LONG-TERM CONTRACTS FOR COMMUNITY-BASED RENEWABLE ENERGY

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

Long-term contracts with program participants who elect the long-term contract for community-based renewable energy pursuant to section 3603, subsection 4, paragraph A are governed by this section. [2009, c. 329, Pt. A, §4 (NEW).]

1. **Investor-owned transmission and distribution utilities; required participation.** Notwithstanding section 3204, the 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 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 commission.

[2009, c. 329, Pt. A, §4 (NEW) .]

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 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.

[2009, c. 329, Pt. A, §4 (NEW) .]

3. **Sale of energy; contract procedures.** 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 section 3212 or solicitations for green power offer bids under section 3212-A. 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.

[2009, c. 329, Pt. A, §4 (NEW) .]

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

[2009, c. 329, Pt. A, §4 (NEW) .]

5. **Contract pricing; cost containment.** The commission shall ensure that in any contract entered into pursuant to this section:

A. The average price per kilowatt-hour within each contract year does not exceed 10¢; and [2009, c. 329, Pt. A, §4 (NEW).]

B. 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 commission. [2009, c. 329, Pt. A, §4 (NEW).]

[2009, c. 329, Pt. A, §4 (NEW) .]

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35-A §3605. RENEWABLE ENERGY CREDIT MULTIPLIER

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

The renewable energy credit multiplier is governed by this section. The value of a renewable energy credit for electricity generated by a program participant that elects the renewable energy credit multiplier under section 3603, subsection 4, paragraph B 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 section 3210, subsections 3 and 3-A. [2009, c. 329, Pt. A, §4 (NEW).]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW).

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35-A §3606. RULES

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(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

The commission shall adopt rules to implement this chapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2009, c. 329, Pt. A, §4 (NEW).]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW).

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35-A §3607. TRACKING; BIENNIAL REPORT

35-A §3607. TRACKING; BIENNIAL REPORT

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

The 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: [2009, c. 329, Pt. A, §4 (NEW).]

1. Community-based renewable energy development. 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

[2009, c. 329, Pt. A, §4 (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 community-based renewable energy in the State and recommendations, including any necessary implementing legislation, to improve the program.

[2009, c. 329, Pt. A, §4 (NEW) .]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW).

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35-A §3608. REGULATORY APPROVALS; USE OF PUBLIC RESOURCES

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(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609; PL 2009, c. 329, Pt. A, §4 (new))

1. Regulatory approval. 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.

[2009, c. 329, Pt. A, §4 (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 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.

[2009, c. 329, Pt. A, §4 (NEW) .]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW).

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35-A §3609. REPEAL; AUTHORITY FOR LEGISLATION

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/15)
(WHOLE SECTION TEXT REPEALED 12/31/15 by T. 35-A, §3609)

This chapter is repealed December 31, 2015. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation regarding this program to the First Regular Session of the 126th Legislature. [2009, c. 329, Pt. A, §4 (NEW).]

SECTION HISTORY
2009, c. 329, Pt. A, §4 (NEW).

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