

35-A §3210. RENEWABLE RESOURCES

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1. Policy. In order to ensure an adequate and reliable supply of electricity for Maine residents and to encourage the use of renewable, efficient and indigenous resources, it is the policy of this State to encourage the generation of electricity from renewable and efficient sources and to diversify electricity production on which residents of this State rely in a manner consistent with this section.

[1999, c. 398, Pt. I, §1 (AMD) .]

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

A. "Efficient resource" means a source of electrical generation that:

(1) Qualifies as a qualifying cogeneration facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997, was constructed prior to January 1, 1997 and meets the following efficiency standard:

(a) During any calendar year, the sum of the useful power output and the useful thermal energy output of the facility is no less than 60% of the total energy input to the facility.

For purposes of this paragraph, the term "useful power output" means the electrical or mechanical energy made available for use, exclusive of any energy used in the power production process. For purposes of this paragraph, the term "useful thermal energy" means thermal energy made available to an industrial or commercial process, net of any heat contained in condensate return and makeup water, used in a heating application or used in a space cooling application. [1999, c. 398, Pt. I, §2 (RPR) .]

A-1. "Alternative compliance payment rate" means a certain dollar amount per kilowatt-hour set by the commission that a competitive electricity provider may pay to the commission to satisfy the portfolio requirements of subsection 3-A. [2007, c. 403, §1 (NEW) .]

B. "Eligible resource" means a source of electrical generation that:

(1) Generates power that can physically be delivered to the control region in which the New England Power Pool, or its successor as approved by the Federal Energy Regulatory Commission, has authority over transmission, or to the Maritimes Control Area; and

(2) Is either a renewable resource or an efficient resource. [1999, c. 398, Pt. I, §2 (RPR) .]

B-1. [2009, c. 542, §1 (RP) .]

B-2. "Renewable energy credit" means a tradable instrument that represents an amount of electricity generated from eligible resources or renewable capacity resources. [2009, c. 542, §2 (AMD) .]

B-3. "Renewable capacity resource" means a source of electrical generation:

(1) Whose total power production capacity does not exceed 100 megawatts and relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(c) Solar arrays and installations;

(d) Geothermal installations;

(e) Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator; or

(f) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(2) That relies on wind power installations. [2009, c. 542, §3 (NEW) .]

B-4. "New" as applied to any renewable capacity resource means a renewable 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.

For the purposes of this paragraph, "capacity resource" has the same meaning as in section 3210-C, subsection 1, paragraph A. For the purposes of this paragraph, "to refurbish" means to make an investment in equipment or facilities, other than for routine maintenance and repair, to renovate, reequip or restore the renewable capacity resource. [2011, c. 413, §1 (AMD) .]

C. "Renewable resource" means a source of electrical generation:

(1) That qualifies as a small power production facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997; or

(2) Whose total power production capacity does not exceed 100 megawatts and that relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(c) Solar arrays and installations;

(d) Wind power installations;

(e) Geothermal installations;

(f) Hydroelectric generators;

(g) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(h) Generators fueled by municipal solid waste in conjunction with recycling. [2009, c. 542, §5 (AMD) .]

[2011, c. 413, §1 (AMD) .]

3. Portfolio requirements. As a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that no less than 30% of its portfolio of supply sources for retail electricity sales in this State is accounted for by eligible resources. If a competitive electricity provider represents to a customer that the provider is selling to the customer a portfolio of supply sources that includes more than 30% eligible resources, the resources necessary to supply more than 30% of that customer's load may not be applied to meet the aggregate 30% portfolio requirement. Rules adopted under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

[1999, c. 398, Pt. I, §3 (AMD) .]

3-A. Portfolio requirements; new renewable capacity resources. Portfolio requirements for new renewable capacity resources are governed by this subsection.

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- (4) Four percent for the period from January 1, 2011 to December 31, 2011;
- (5) Five percent for the period from January 1, 2012 to December 31, 2012;
- (6) Six percent for the period from January 1, 2013 to December 31, 2013;
- (7) Seven percent for the period from January 1, 2014 to December 31, 2014;
- (8) Eight percent for the period from January 1, 2015 to December 31, 2015;
- (9) Nine percent for the period from January 1, 2016 to December 31, 2016; and
- (10) Ten percent for the period from January 1, 2017 to December 31, 2017.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of subsection 3. [2007, c. 2, §20 (COR).]

B. Suspensions of scheduled increases in the portfolio requirements as provided in paragraph A are governed by this paragraph.

(1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission determines that investment in new renewable capacity resources in the preceding 2 calendar years has not been sufficient for competitive electricity providers to meet the portfolio requirements under paragraph A and that the resulting use of renewable energy credits pursuant to subsection 8 or the alternative compliance payment mechanism pursuant to subsection 9, or both of these methods, has burdened electricity customers in the State without providing the benefits of new renewable capacity resources, the commission may suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(2) If the commission finds that alternative compliance payments are made pursuant to subsection 9 in 3 consecutive calendar years, the commission shall temporarily suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(3) If the commission suspends any scheduled increases in the portfolio requirements under paragraph A pursuant to subparagraph (1) or (2), the commission may resume increases, limited to no more than one percentage point per year over the previous year, in the portfolio requirements after a minimum of one year. [2007, c. 403, §4 (NEW).]

C. No later than March 31, 2008 and annually thereafter, the commission shall submit a report regarding the status of new renewable capacity resources in the State and compliance with the portfolio requirements under paragraph A to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include, but is not limited to, a description of new renewable capacity resources available to meet the portfolio requirements under paragraph A, documentation of the loss of any existing renewable generation capacity in the State, the status of implementation of the new renewable capacity resources portfolio requirements, including any suspensions pursuant to paragraph B, and recommendations to stimulate investment in new renewable capacity resources. [2007, c. 403, §4 (NEW).]

D. Retail electricity sales pursuant to a supply contract or standard-offer service arrangement executed by a competitive electricity provider that is in effect on the effective date of this subsection is exempt from the requirements of this subsection until the end date of the current term of the supply contract or standard-offer service arrangement. [2007, c. 403, §4 (NEW).]

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2007, c. 2, §20 (COR) .]

4. Report. In view of property tax benefits, developments in other states and the development of a market for tradable credits for satisfying eligible resource requirements, the commission shall review the 30% portfolio requirement and make a recommendation for any change to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than 5 years after the beginning of retail competition.

[1999, c. 398, Pt. I, §3 (AMD) .]

5. Funding for research and development; community demonstration projects.

[2009, c. 565, §1 (RPR); T. 35-A, §3210, sub-§5 (RP) .]

6. Fund.

[2009, c. 565, §2 (RP); 2009, c. 565, §9 (AFF) .]

6-A. Renewable Resource Fund report.

[2009, c. 565, §3 (RP); 2009, c. 565, §9 (AFF) .]

7. Information. To the extent that funding is available, the commission shall inform electricity consumers in this State of the benefits of electricity generated in this State using renewable resources and of the opportunities available in this State to purchase electricity that is generated using those resources, including, but not limited to, the green power offer and other green power supply products and renewable energy credit products certified under section 3212-A. The commission may not promote any renewable resources over others. The commission may apply for, receive and expend grant money from the United States Department of Energy and other government agencies for this purpose. The commission may create or cause to be created a brand or logo to identify Maine renewable resources, including the green power offer and other green power supply products and renewable energy credit products certified under section 3212-A, to consumers. The commission shall register any mark or logo created pursuant to this subsection with the United States Patent and Trademark Office or in accordance with Title 10, chapter 301-A, or both. Any brand or logo created pursuant to this subsection may only be used in accordance with the purposes of this subsection as approved by the commission.

[2011, c. 283, §1 (AMD) .]

8. Credit trading. The commission shall allow competitive electricity providers to satisfy the portfolio requirements of subsections 3 and 3-A through the use of renewable energy credits if the commission determines that a reliable system of electrical attribute trading exists. When renewable energy credits are used to satisfy the portfolio requirements of subsections 3 and 3-A, the value of a renewable energy credit for electricity generated by a community-based renewable energy project, as defined in section 3602, that is participating in the community-based renewable energy pilot program established in section 3603 and elects the renewable energy credit multiplier under section 3605 is 150% of the amount of the electricity.

[2009, c. 329, Pt. A, §2 (AMD) .]

9. Alternative compliance payment; portfolio requirements for new renewable capacity resources.

The commission shall allow competitive electricity providers to satisfy the portfolio requirements for new renewable capacity resources under subsection 3-A through an alternative compliance payment mechanism in accordance with this subsection.

A. The commission shall set the alternative compliance payment rate by rule and shall publish the alternative compliance payment rate by January 31st of each year. In setting the rate, the commission shall take into account prevailing market prices, standard-offer service prices for electricity, reliance on alternative compliance payments to meet the requirements of subsection 3-A and investment in new renewable capacity resources in the State during the previous calendar year. [2007, c. 403, §7 (NEW) .]

B. The commission shall collect alternative compliance payments made by competitive electricity providers and shall deposit all funds collected under this paragraph in the Energy Efficiency and Renewable Resource Fund established under section 10121, subsection 2 to be used to fund research, development and demonstration projects relating to renewable energy technologies and to fund rebates for cost-effective renewable energy technologies. [2011, c. 637, §1 (AMD) .]

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 637, §1 (AMD) .]

SECTION HISTORY

1997, c. 316, §3 (NEW). 1999, c. 372, §§1,2 (AMD). 1999, c. 398, §§11-3 (AMD). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2003, c. 665, §1 (AMD). 2005, c. 646, §2 (AMD). RR 2007, c. 2, §20 (COR). 2007, c. 18, §§1-3 (AMD). 2007, c. 403, §§1-7 (AMD). 2007, c. 644, §§1-3 (AMD). 2009, c. 329, Pt. A, §2 (AMD). 2009, c. 329, Pt. B, §1 (AMD). 2009, c. 372, Pt. K, §§1-3 (AMD). 2009, c. 372, Pt. K, §5 (AFF). 2009, c. 415, Pt. E, §2 (AFF). 2009, c. 542, §§1-5 (AMD). 2009, c. 565, §§1-4 (AMD). 2009, c. 565, §9 (AFF). 2011, c. 283, §1 (AMD). 2011, c. 314, §1 (AMD). 2011, c. 413, §1 (AMD). 2011, c. 637, §1 (AMD). MRSA T. 35-A, §3210, sub-§5 (RP).

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