



OPA Comments on Department of Energy Resources Front-of-the-Meter Distributed Energy Resource Program Draft Proposal

The Office of the Public Advocate (OPA) submits these comments in response to the draft front-of-the-meter (FTM) distributed energy resource (DER) proposal issued by the Department of Energy Resources (DOER) on August 27, 2026. These comments are also informed by a webinar hosted by the DOER and its consultants on September 2, 2026, as well as conversations between the two agencies and their consultants. The OPA appreciates the work of the DOER in preparing the draft proposal, however, the OPA is concerned that, in its current form, the proposal is not susceptible to a rigorous benefit-cost analysis (BCA) as required by law. The OPA recommends that the DOER specify in detail how projects will be compensated so that a transparent BCA can be conducted. The OPA further recommends that the DOER proposal be revised such that: 1) the locational value of DERs is the primary focus of the program; 2) a specific compensation setting or competitive procurement approach is proposed; 3) BCA scoring is limited to assessing benefits to Maine ratepayers; 4) the standard offer provider is not rolled into the process, and 5) costs are allocated to all ratepayers under the program. These points are discussed in more detail below.

I. The primary focus of the program should be to provide targeted grid benefits rather than clean energy.

Conceptually, the OPA is concerned that the draft proposal appears to focus primarily on valuing the energy generated by a FTM DER program. While the energy value is clearly one benefit that must be accounted for, the primary purpose of distributed generation is not simply to provide clean energy. If that were the primary goal, it would be more cost effective to procure utility-scale renewable resources. The premise of distributed generation is that it can provide unique grid services that cannot be provided by larger renewable energy projects. Meanwhile, the project economics of DERs may push them to behave more like utility scale projects, searching for larger, more remote sites where land is relatively inexpensive, but far from the grid challenges that one would hope the DERs would address. The OPA therefore recommends that the proposal emphasize locational value to ensure that projects are sited in areas of the grid

where they are likely to provide grid benefits.

While the draft proposal does anticipate a distribution system service (DSS) contract, it currently envisions that this aspect of the program will be “phased in after Part 1 implementation and made available to qualifying new projects or existing projects with a Part 1 standard Offer Block contract”¹ This makes the grid benefits a secondary consideration of the program rather than its primary focus. The OPA recommends that grid benefits be the focus of the program by including a compensation model that delivers verifiable transmission and distribution cost savings.

II. The draft proposal does not allow for a benefit-cost analysis that would demonstrate the benefits to ratepayers outweigh the costs as required by statute.

Under the statutory provision governing the front-of-the-meter (FTM) distributed energy resource (DER) program, the Commission must find that DOER’s proposal “provide[s] benefits to ratepayers in the State in excess of the costs to ratepayers.”² This standard requires a quantitative benefit-cost analysis that would show expected benefits are likely to exceed the cost to ratepayers. Under the draft proposal, there is no basis for the Commission to make this finding. While the draft proposal provides a number of different options for scoring and setting compensation for projects, it does not identify any specific assumptions that could be modeled quantitatively. Absent this quantitative modeling, the Commission has no basis to make the required statutory finding.

To correct this deficiency, the proposal should identify specific avoided cost assumptions or other methodology that DOER intends to use to set project compensation. If the DOER intends that prices be established through competitive procurement, the OPA recommends that such a solicitation include a specific price cap, as well as a mechanism to ensure that the solicitation is truly competitive. To achieve this, any solicitation could be required to have a certain minimum level of participation. For example, if the target quantity is 100 MW of DERs, the Commission would have to receive bids for at least 150 MW in order to make any awards.

III. BCA scoring of the proposal should be limited to benefits that accrue to Maine ratepayers, not society at large.

The draft proposal states that the utility cost test (UCT) should be the primary test to determine whether the program is likely to provide net benefits to Maine ratepayers. The OPA agrees that the UCT is the most appropriate test, as it reflects the actual

¹ Draft Proposal at 18.

² 35-A M.R.S. § 3209-I(2).

monetized benefits that accrue to Maine ratepayers. This test should be used to evaluate the overall program design, as well as the selection of specific projects, if appropriate, under the program adopted.

However, the proposal also states that the societal cost test (SCT) can be used as a “supplementary perspective” to inform program design and project selection.³ The OPA disagrees. The SCT should not be used in any way to score the overall program or specific projects because the statutory requirement is to provide net benefits to Maine ratepayers. To the extent the SCT includes benefits that flow to other states⁴ or society at large, this test is simply not relevant to the test required by statute.

The BCA analysis should also avoid double counting benefits. For example, it may be inappropriate to value both renewable energy credits (RECs) and avoided greenhouse gases as these two categories represent the same benefit.

IV. Requiring standard offer providers to accept the output of the projects has significant drawbacks and does not provide any clear benefits.

The OPA is concerned about the draft proposal’s suggestion that the energy output of the participating facilities flow to standard offer providers (SOPs). As the OPA understands DOER’s proposal, the SOPs selected through the Commission’s annual procurement process would be responsible for accepting the energy and REC output of the facilities participating in the program, presumably in proportion to the percentage of load each SOP is selected by the Commission to serve. While this arrangement makes sense in theory because SOPs are load serving entities (LSEs), it may lead to higher standard offer prices for two reasons.

First, if the contracts awarded provide above-market prices to the participating generators, they would increase standard offer prices if the costs are allocated to standard offer customers. This would have the downside of increasing standard offer prices relative to alternatives, such as prices offered by competitive electricity providers or community choice aggregators. In a worst-case scenario, this could lead to a standard offer “death spiral” in which customers flee the standard offer in favor of cheaper alternatives, which would require fixed costs be allocated to a smaller pool of customers, creating a vicious cycle of ever-escalating prices.

Alternatively, if costs are recovered from all customers, this proposal has the

³ Draft Proposal at 26.

⁴ The OPA is particularly concerned about any BCA analysis that gives weight to so-called “rest of pool” benefits, i.e. direct and indirect monetary benefits that flow to out-of-state ratepayers. Where the costs of the program will be shouldered by Maine ratepayers, financial benefits that flow to out-of-state ratepayers should be explicitly excluded from any analysis of the benefits of the program.

downside of creating a mismatch between costs and benefits because the price-hedge benefits of the contracts would flow only to standard offer customers. As explained in more detail below, the OPA believes costs and benefits should accrue symmetrically to all ratepayers.

Second, while the draft proposal refers to standard offer “blocks” of energy, these will not be firm blocks of power that the SOP can rely on to reduce its load obligation. The output of the facilities will presumably be influenced by weather and other technology-specific factors. This uncertainty will add risk, which by itself could increase prices.

These are significant drawbacks of involving SOPs in the proposal. At the same time, the OPA sees little upside in requiring the SOPs to accept the output of these contracts. There is a clear path to monetizing the output by requiring utilities to resell it into the wholesale market. This is how all the long-term energy contracts and all the NEB contracts are currently monetized. Given the similarity between these contracts and other renewables contracts, it makes sense to treat them the same.

The draft proposal’s standard offer approach is also contrary to the Commission’s own recent findings. The Commission previously allowed for “linked” standard offer bids under which a prospective SOP would bid on both the output of long-term energy contracts and incorporate the value of that energy into its standard offer bid price.⁵ In more recent years, however, the Commission found that these “linked bids” failed to maximize the value of these generation resources and therefore discontinued the practice of requiring them in the standard offer procurement.⁶ Specifically, the Commission concluded that requiring the utilities to sell the output of their long-term contracts into the wholesale market provided the highest value for ratepayers.⁷

After finding that the linked bid strategy failed to maximize the value of the long-term contracts, the Commission opened an inquiry and retained a consultant to investigate alternatives to selling the output of the long-term contracts into the wholesale market. The consultant’s report ultimately concluded that any opportunity to increase revenues would come with increased risks that would likely outweigh the upside benefits over simply selling into the wholesale market. Most germane here, the consultant’s report found “there is little upside in looking for buyers of an intermittent,

⁵ See, e.g. *Public Utilities Commission*, Standard Offer Bidding Procedure for CMP and CMP Residential and Small Non-Residential Customers and All MPS Customers, No. 2008-00400, Order Designating Standard Offer Provider and Directing Utility to Enter Entitlements Agreement, at 3 (Me. P.U.C. Jan. 13, 2009).

⁶ *Public Utilities Commission*, Standard Offer Billing Procedure for CMP and Emera Maine-BHD Small, Medium and Large Non-Residential, No. 2017-00184, Order Designating Standard Offer Providers and Directing Utility to Enter Entitlements Agreement, at 5 (Me. P.U.C. Nov. 8, 2017).

⁷ *Id.*

non-dispatchable energy-only product, and firming intermittent solar in order to create a more attractive product adds cost and risk, without a large upside”⁸

While there may be opportunities to squeeze more value out of the current portfolio of long-term contracts, including any contracts awarded under this program, any such initiative would likely require extensive analysis and may benefit from analyzing the output of all the long-term energy contracts at once. Accordingly, the OPA recommends that the draft proposal remove any requirement that standard offer providers accept the output of the FTM DERs.

V. Costs of the program should be allocated to all ratepayers because the benefits flow to all ratepayers.

The Commission has explicitly found that all ratepayers benefit from long-term energy contracts and the net energy billing program, and therefore all ratepayers should share in the costs of these programs.⁹ The FTM DER program is no different than the NEB program or the long-term energy contracts when it comes to the benefits of clean energy. And if the FTM DER program is successful in avoiding or deferring grid upgrades, all customers will benefit from those avoided or deferred investments in rates.

Because all customers will receive the benefits from the program, it is only fair that all customers share in the costs of the program. As explained above, given the similarities between this program and other long-term renewables contracts, it makes sense to capture the costs and benefits of this program in stranded cost rates.

CONCLUSION

The OPA thanks the DOER for the opportunity to provide these comments and looks forward to working together to develop a program that benefits Maine ratepayers.

⁸ See *Public Utilities Commission*, Inquiry Regarding Management and Sale of Transmission and Distribution Supply Portfolios, No. 2023-00023, London Economics Report, at 30 (Me. P.U.C. Mar. 7, 2024).

⁹ *Public Utilities Commission*, Investigation of Rate Treatment of NEB Program Costs, No. 2021-00360, Order, at 11 (Me. P.U.C. Mar. 11, 2022) (“[A]ll ratepayers benefit from the State’s policies on climate change and beneficial electrification and, accordingly, basic rate design and equity principles would dictate that all ratepayers pay some portion of these costs.”).