

Chapter 312: DISTRIBUTED GENERATION PROCUREMENT

---

**SUMMARY:** This rule establishes the requirements for procurements and related measures for distributed generation.

---

**TABLE OF CONTENTS**

<b>§ 1</b>	<b>PURPOSE</b> .....	3
<b>§ 2</b>	<b>DEFINITIONS</b> .....	3
<b>§ 3</b>	<b>MEASURES TO SUPPORT DISTRIBUTED GENERATION</b> .....	6
	A. Procurements .....	6
	B. Participation in Wholesale Markets.....	6
	C. Change in Tax Treatment.....	6
<b>§ 4</b>	<b>STANDARD BUYER</b> .....	6
	A. Designation .....	6
	B. Obligations.....	6
	C. Rights .....	7
	D. Treatment of the output of distributed generation resources .....	7
	E. Cost and benefit allocation.....	7
<b>§ 5</b>	<b>PROJECT SPONSOR</b> .....	7
	A. Designation .....	7
	B. Obligation .....	7
<b>§ 6</b>	<b>BILL CREDIT PROTOCOLS AND PROJECT SPONSOR REQUIREMENTS</b> .....	8
	A. Commercial or Institutional Distributed Generation .....	8
	B. Shared Distributed Generation.....	8

<b>§ 7</b>	<b>PROCUREMENT PARAMETERS, STANDARDS METHODS, AND PROCESSES .....</b>	<b>10</b>
	A. Procurement Sectors and Aggregate Target Amounts.....	10
	B. Procurement Rounds, Targets, and Schedule.....	10
	C. Procurement Announcement.....	10
	D. Qualification .....	11
	E. Standard Contract .....	12
	F. Milestones.....	12
	G. Bidding Fees .....	12
	H. Ensuring competition.....	12
	I. Bid evaluation and selection .....	13
	J. Initial Procurement Round (Block 1).....	13
	K. Subsequent Procurement Rounds (Blocks 2-5) .....	14
	L. Failure to complete timely procurement.....	15
<b>§ 8</b>	<b>RENEWABLE ENERGY CREDITS.....</b>	<b>15</b>
	A. Standard disclosure .....	15
	B. Purchase of renewable energy credits.....	15
<b>§ 9</b>	<b>CONSUMER PROTECTION .....</b>	<b>16</b>
	A. Applicability .....	16
	B. Trade Practices.....	16
	C. Registration.....	16
	D. Financial Security .....	16
	E. Standard Disclosures.....	16
	F. Sanctions.....	17
<b>§ 10</b>	<b>DISPUTE RESOLUTION.....</b>	<b>17</b>
<b>§ 11</b>	<b>WAIVER PROVISIONS.....</b>	<b>18</b>

## § 1 PURPOSE

The purpose of this Chapter is to establish the requirements and processes for procurement of energy, capacity, and renewable attributes from distributed generation resources in the State and other related measures.

## § 2 DEFINITIONS

- A. **Bid offer rate.** “Bid offer rate” means the rate proposed under a qualified bid for the output of a distributed generation resource in response to a procurement solicitation conducted pursuant to this Chapter.
- B. **Block rate.** “Block rate” means the applicable rate established for a procurement block pursuant to this Chapter, including the block base rate and any applicable block incentive rates.
- C. **Block base rate.** “Block base rate” means the base rate established for a procurement block pursuant to this Chapter.
- D. **Block incentive rates.** “Block incentive rates” means a set of rates, which may be positive or negative values, established for a procurement block and applicable to distributed generation resources with certain attributes.
- E. **Clearing price.** “Clearing price” means the highest bid offer rate accepted by the Commission in the initial procurement rounds pursuant to this Chapter.
- F. **Commercial or institutional customer.** “Commercial or institutional customer” means a nonresidential customer of an investor-owned transmission and distribution utility in the State.
- G. **Commercial or institutional customer distributed generation resource.** “Commercial or institutional customer distributed generation resource” means a distributed generation resource that is associated with a commercial or institutional customer.
- H. **Commercially operable.** “Commercially operable” means that the distributed generation resource in issue is operational and placed in service and that the project has been constructed, tested, and is fully capable of operating for the purpose of generating electrical energy as contemplated in this Chapter.
- I. **Credit rate.** “Credit rate” means the rate per kilowatt-hour used to calculate the bill credits for subscribers of a shared distributed generation resource or for commercial or institutional customers. The credit rate for subscribers of a shared distribution resource or for commercial or institutional customers shall equal the per kilowatt-hour price in the long-term contract with that resource’s project sponsor and must be the same for all subscribers of a particular shared distributed generation resource.
- J. **Discrete electric generating facility.** “Discrete electric generating facility” means a facility that is not co-located with or otherwise in geographic proximity to (i) another distributed generation resource as defined by this Chapter, or (ii) an eligible facility as

defined in Chapter 313 of the Commission's rules in which there is a common financial or other interest that is contrary to the purpose of Title 35-A, sections 3209-A, 3209-B, chapter 34-C.

- K. Distributed generation resource.** “Distributed generation resource” means a discrete electric generating facility, to be installed pursuant to this Chapter, with a nameplate capacity of less than five (5) megawatts that uses a renewable fuel or technology under 35-A M.R.S. section 3210, subsection 2, paragraph B-3 and is located in the service territory of an investor-owned transmission and distribution utility in the State. A distributed generation resource participating in programs under this Chapter may not participate in programs under Chapter 313.
- L. Energy produced.** “Energy produced” means the energy produced by the distributed generation resource and any associated energy storage system.
- M. Energy storage system.** “Energy storage system” means a system that stores energy produced by an associated distributed generation resource for use at a later time.
- N. Household with low or moderate income.** “Household with low or moderate income” means a household that (1) participates in a utility, municipal, state or federal income-based assistance program or (2) has household income of up to 80% of the median income for the county or metropolitan area where the household is located.
- O. Investor-owned transmission and distribution utility.** “Investor-owned transmission and distribution utility” has the same meaning as in 35-A M.R.S. section 3104, subsection 1, paragraph A.
- P. Kilowatt.** “Kilowatt” means 1,000 watts. When used in reference to a generation resource, a kilowatt is measured by the generator's nameplate capacity.
- Q. Kilowatt-hour.** “Kilowatt-hour” means one kilowatt of power sustained for one hour.
- R. Megawatt.** “Megawatt” means 1,000 kilowatts. When used in reference to a generation resource, a megawatt is measured by the generator's nameplate capacity.
- S. Nameplate capacity.** “Nameplate capacity” means the installed or rated capacity of a distributed generation resource in Alternating or Direct Current (AC/DC), as applicable to the resource.
- T. Offer.** “Offer” means a proposal to install, operate and provide the output of a distributed generation resource pursuant to a contract with a standard buyer designated pursuant to this Chapter.
- U. Output.** “Output” means the energy, capacity, renewable energy certificates and all other environmental attributes and market products that are available or may become available from a distributed generation resource and any associated energy storage systems.
- V. Procurement announcement.** “Procurement announcement” means the formal announcement of the initiation of a procurement round pursuant to this Chapter.

- W. Project sponsor.** “Project sponsor” means an entity or its successor or assignee that develops, markets, owns, manages, operates or is otherwise the responsible entity for:
1. A shared distributed generation resource on behalf of subscribers; or
  2. A commercial or institutional distributed generation resource.
- X. Qualified Bid.** “Qualified bid” means a bid that meets the qualification requirements established by this Chapter and the applicable procurement announcement.
- Y. Rate.** “Rate” means a price per kilowatt-hour for delivered energy as measured by a revenue-quality meter at a distributed generation resource’s delivery point as specified in the standard agreement.
- Z. Renewable energy credit.** “Renewable energy credit” means a credit or certificate that represents renewable attributes of electric power that may be traded separately from the energy commodity.
- AA. Revenue Quality Meter.** “Revenue Quality Meter” means an electric meter that meets the applicable standards and requirements of the investor-owned transmission and distribution utility and the ISO-NE or NMISA, as applicable, in the service territory where the distributed generation resource is located.
- BB. Shared distributed generation resource.** “Shared distributed generation resource” means a distributed generation resource for which the value of the output is owned by, allocated to, or otherwise shared by subscribers.
- CC. Subscriber.** Subscriber means a retail customer of an investor-owned transmission and distribution utility that owns, has the rights to, or otherwise possesses a subscription in a shared distributed generation resource and that has identified an account to which the subscription is attributed. Subscribers of a given shared distributed generation resource must be located in the same investor-owned transmission and distribution utility service territory as the location of the resource.
- DD. Subscribed Output.** “Subscribed Output” means (1) for a shared distributed resource, the portion of the output of the resource in a given month that corresponds to the portion of the nameplate capacity of the resource for which there are subscriptions and (2) for a commercial or institutional distributed resource, all of the output of the resource.
- EE. Subscription.** “Subscription” means a proportional interest in a shared distributed generation resource in kilowatts. Each subscription must be sized to represent at least one kilowatt of the resource’s nameplate generating capacity.
- FF. Unsubscribed Output.** “Unsubscribed Output” means, for a shared distributed generation resource, the portion of the output of the resource in a given month that corresponds to the portion not subscribed.

### § 3 MEASURES TO SUPPORT DISTRIBUTED GENERATION

- A. **Procurements.** The Commission shall administer processes to procure the output from distributed generation resources in accordance with this Chapter.
- B. **Participation in Wholesale Markets.** The Commission and investor-owned transmission and distribution utilities shall take all commercially reasonable steps to promote the participation of distributed generation resources in serving the State's energy needs and in the regional wholesale electricity, capacity and ancillary service markets.
- C. **Change in Tax Treatment.** If the Commission is informed by a project sponsor or subscriber, a transmission and distributed utility, or other entity, or the Commission otherwise becomes aware of a change in federal tax laws, regulations or policy that materially modifies the burdens or costs to customers or utilities associated with the procurements under this Chapter, the Commission shall issue a report to the joint standing committee of the Legislature having jurisdiction over energy matters describing the impact of these changes and recommending any actions necessary to maintain the benefits of the procurements under this Chapter.

### § 4 STANDARD BUYER

The standard buyer(s) shall aggregate and purchase the output of shared distributed generation resources procured in accordance with this Chapter and sell or use the output in a manner that maximizes value for ratepayers.

- A. **Designation.** Unless another entity is designated by the Commission pursuant to Section (4)(D) of this Chapter, the investor-owned transmission and distribution utility shall serve as the standard buyer for distributed generation resources located in its service territory. An entity other than an investor-owned transmission and distribution utility may request to be a standard buyer. The Commission shall consider such requests, pursuant to a process and schedule established by the Commission and may grant a request upon a finding that the other entity serving as the standard buyer is in the public interest. To the extent the Commission designates another entity as the standard buyer, the Commission may require the rights and obligations between the standard buyer and the investor-owned transmission utility to be reflected in a contract.
- B. **Obligations.** A standard buyer shall:
  - 1. Serve as the counterparty to long-term contracts with project sponsors;
  - 2. If the standard buyer is not an investor-owned transmission and distribution utility, reimburse the applicable investor-owned transmission and distribution utility for administrative expenses and bill credits or payments to subscribers or project sponsors and provide to the investor-owned transmission and distribution utility the information set forth in this subsection;
  - 3. Establish reasonable measurement and verification protocols for distributed generation resources;
  - 4. Collect and provide to the Commission, using a transparent mechanism, information needed to allocate costs and benefits pursuant to this Chapter;

5. Provide to the Commission facility-specific and aggregate data regarding the output of distributed generation resources procured pursuant to this Chapter; and
  6. Manage and monetize the output of distributed generation resources pursuant to the provisions of this Chapter.
- C. **Rights.** A standard buyer shall retain rights to all of the output of distributed generation resources to which it is the contractual counterparty in accordance with this section.
- D. **Treatment of the output of distributed generation resources.**
1. Unless otherwise ordered by the Commission, the standard buyer shall sell, use, manage, monetize, transfer, or otherwise dispose of the subscribed output of distributed generation resources in a manner that maximizes its value to ratepayers. Each standard buyer shall file a plan, subject to Commission review, that documents how it will comply with this provision.
  2. All value associated with (1) the output of a commercial or institutional distributed generation resource and (2) the subscribed output of a shared distributed generation resource shall inure to the benefit of ratepayers. All value associated with the unsubscribed output of a shared resource shall inure to the benefit of the project sponsor.
- E. **Cost and benefit allocation.**
1. The costs and benefits incurred or realized by the standard buyer(s) shall be reviewed by the Commission on an annual basis for inclusion in the stranded cost rates of customers of the investor-owned transmission and distribution utilities. The process established by the Commission shall be similar to the allocation of costs and benefits of long-term energy contracts in section 3210-F of Title 35-A.
  2. Eligible costs and benefits include: (1) the incremental administrative costs to serve as the standard buyer; (2) payments or bill credits to customers, subscribers and project sponsors; and (3) revenue from the sale of the output of distributed generation resources.

## § 5 PROJECT SPONSOR

- A. **Designation.** A project sponsor shall be designated for each distributed generation resource. A commercial or institutional customer shall be the project sponsor for its distributed generation resource unless the customer designates another entity as the project sponsor.
- B. **Obligations.** A project sponsor must comply with the applicable provisions of this Chapter, the requirements of the applicable procurement round, and the terms of its contract(s) with the standard buyer. Failure to do so may result in the imposition of penalties and/or requirements to make restitution payments in accordance with this Chapter and/or the provisions of Maine statute, and may result in termination of the project sponsor's contract(s).

## § 6 BILL CREDIT PROTOCOLS AND PROJECT SPONSOR REQUIREMENTS

### A. Commercial or Institutional Distributed Generation

1. **Bill Credit.** The bill credit for a commercial or institutional customer pursuant to this Chapter shall reflect the energy produced by the customer's distributed generation resource in the prior month. For each billing month, the dollar value of the customer's credit shall be the product of the energy production in kilowatt-hours and the block contract rate for the applicable block, subject to the provisions of this Chapter. Investor-owned transmission and distribution utilities may adjust commercial or institutional customers' billing cycles to administer the provisions of this Chapter.

If the value of a credit to be applied to a customer's bill under this Chapter is less than the amount owed by the customer at the end of the applicable billing period, the customer shall be billed for the difference between the amount shown on the bill and the value of the available credit. If the value of the credit to be applied to a customer's bill under this Chapter is greater than the amount owed by the customer at the end of the billing period, the remaining value of the credit shall be carried to the next month. Any credits carried forward that remain unused after 24 months shall have expired.

2. **Metering.** The monthly energy production of a commercial or institutional distributed generation resource must be determined by a revenue-quality meter, the cost of which shall be paid by the participating customer or project sponsor.

### B. Shared Distributed Generation

1. **Payment.** The project sponsor or subscribers of a shared distributed generation resource that receives a contract under this Chapter shall receive the value of the applicable contract rate for the output of a shared distributed generation resource for the portion of the resource that is subscribed. For any portion not subscribed, the project sponsor shall receive the value obtained by the standard buyer for the output of the shared distributed generation resource.

2. **Minimum Subscription Requirements**

Each project sponsor of a shared distributed generation resource must verify pursuant to a sworn affidavit submitted in accordance with the procurement announcement and the milestones or other requirements set forth in the project sponsor's contract that the minimum subscription requirements of this Chapter will be or have been met. The Commission may require project sponsors to update this verification on a periodic basis.

Requirements for minimum subscriptions include:

- a. At least 50% of the total nameplate capacity of a shared distributed generation resource must be subscribed by (1) subscriptions of 25 kilowatts or less or (2) at least 20% of the total nameplate capacity must be subscribed by subscriptions of 25 kilowatts or less if subscriptions from a municipality or units of municipal government account for more



than 30% but not more than 50% of the total nameplate capacity of a shared distributed generation resource; and

- b. At least 10% of the total nameplate capacity of a shared distributed generation resource must be subscribed by households with low or moderate income or by organizations serving households with low or moderate income if the subscriptions serve to directly reduce the electricity costs for households with low or moderate income except that, if a municipality or unit of municipal government accounts for more than 50% of the subscriptions to a shared distributed generation resource, 5% of the total nameplate capacity of the shared distributed generation resource must be subscribed by households with low or moderate income or by organizations serving households with low or moderate income if the subscriptions serve to directly reduce the electricity costs for households with low or moderate income.
- c. Subscriptions from municipalities or units of municipal government may not account for more than 70% of the nameplate capacity of a shared distributed generation resource.

3. **Determination of subscriber bill credit.** The bill credit allocated to each subscriber of a shared distributed generation resource shall be based on the subscriber's percentage interest in the shared distributed generation resource for the applicable month. The percentage interest shall be calculated as the subscriber's subscription in kilowatts divided by the nameplate capacity of the resource. For each billing month, the value of the credit allocated to each subscriber shall be calculated as the energy produced by the resource in the prior month in kilowatt-hours multiplied by the subscriber's percentage interest multiplied by the applicable contract rate, subject to the provisions of this Chapter.

If the value of a credit to be applied to a customer's bill under this Chapter is less than the amount owed by the customer at the end of the applicable billing period, the customer shall be billed for the difference between the amount shown on the bill and the value of the available credit. If the value of the credit to be applied to a customer's bill under this Chapter is greater than the amount owed by the customer at the end of the billing period, the remaining value of the credit shall be carried to the next month. Any credits carried forward that remain unused after 24 months shall have expired.

The project sponsor must provide to the applicable investor-owned transmission and distribution utility in a standardized and electronic format no later than 3 business days following each calendar month a list of subscribers, account numbers, and all subscriber information required to calculate the bill credits. A credit to a subscriber shall be applied against the subscriber's monthly electricity bill in accordance with this Chapter no later than one billing month following the month during which the energy was generated by the shared distributed generation resource. The investor-owned transmission and distribution utility shall provide a monthly record to the project sponsor of the credit applied to a subscriber within a month after the credits are applied to the subscriber's bill. Investor-owned transmission and distribution utilities may place subscriber

customers on the same billing cycle, or make other adjustments, to implement the provisions of this Chapter.

4. **Metering.** The monthly output available for allocation as subscribed or unsubscribed energy must be determined by a revenue quality meter the cost of which shall be paid for by the project sponsor.
5. **Transfer of subscriptions.** A subscriber may transfer or assign its subscription or any portion thereof to the project sponsor or to any person or entity that qualifies to be a subscriber in the shared distributed generation resource, subject to the requirement that a subscription must represent at least one (1) kilowatt of the resource's capacity. A project sponsor must provide a process for assignment or transfer of a subscription and include a description of the process in the disclosures required by this Chapter. A project sponsor may not impose transfer fees on a subscriber that moves to a different location within the same utility service territory.
6. **Project sponsor report.** One year after commercial operation of a shared distributed generation resource commences, the project sponsor shall submit to the Commission a report detailing compliance with the provisions of this Chapter. By order, the Commission may require a project sponsor to submit additional and/or more frequent reports to the Commission detailing compliance with the provisions of this Chapter.
7. **Utility costs paid by project sponsor.** If a project sponsor pays an investor-owned transmission and distribution utility's costs associated with billing and collection from a subscriber, at the request of a project sponsor the utility shall bill the subscriber on behalf of the project sponsor. Costs under this provision are subject to review by the Commission at the request of either a subscriber or project sponsor.

## § 7 PROCUREMENT PARAMETERS, STANDARDS, METHODS, AND PROCESSES

- A. **Procurement Sectors and Aggregate Target Amounts.** The Commission shall administer procurement processes in accordance with this Chapter for, in the aggregate, 125 megawatts of commercial or institutional and 250 megawatts of shared distributed generation resources.
- B. **Procurement Rounds, Targets, and Schedule.** The Commission shall conduct five procurement rounds for each of the two resource sectors. The target amount to be procured in each round shall be one-fifth (20%) of the aggregate target amount for each sector. Pursuant to the initial procurement round (Block 1), bids shall be accepted for thirty (30) calendar days beginning on or before July 1, 2020. Each subsequent procurement round (Blocks 2-5) shall be conducted sequentially, immediately following completion of the prior block.
- C. **Procurement Announcement.** The Commission shall initiate each procurement round by issuing a procurement announcement, which shall: (1) establish the schedule and process for the procurement block, including the bid date or time period during which bids may be submitted; (2) establish the requirements, process and schedule for

qualification of bidders and projects intending to submit an offer in the procurement round; (3) establish the standards by which the Commission will determine whether the procurement round has a sufficient number of unique and qualified bidders and is sufficiently competitive; (4) establish the amount of any bidding fee and financial security requirements; (5) establish bid evaluation and selection criteria; (6) describe any attribute-based incentives and disincentives offered in the procurement round; (7) provide the applicable block base rate and any block incentive rates; (8) establish the method(s) by which a bidder can demonstrate the capacity to make a financial assurance deposit at the time a contract is signed; (9) provide the standard contract; and (10) provide other information relevant to the procurement round.

- D. **Qualification.** Prior to the bid offer rate submission date or period for each procurement round, the Commission shall qualify bidders and projects. Only bidders and projects that meet the minimum requirements of this Chapter may submit bids in the corresponding procurement round.

The minimum requirements for qualification must be sufficiently demonstrated and documented by a bidder pursuant to the qualification process conducted by the Commission.

The Commission will conduct the qualification process in accordance with the procurement announcement and will complete the qualification process no less than five business days prior to the bid offer rate submission date or period for the procurement round. Qualification of a bidder or project by the Commission is valid only for that procurement round. A project that is qualified by the Commission in a procurement round may not automatically carry forward the qualification to any subsequent procurement round.

The minimum requirements for qualification include:

1. Demonstration of site control;
2. A fully executed interconnection service agreement with an investor-owned transmission and distribution utility;
3. Demonstration that all required federal, state and local approvals and nonministerial permits for the project have been obtained. For the purposes of this paragraph, “nonministerial permit” means a permit for which one or more officials consider various factors and exercise discretion in deciding whether to issue or deny the permit;
4. The capacity to make a financial assurance deposit at the time a contract is signed;
5. For a commercial or institutional distributed generation resources procurement, if a participating commercial or institutional customer is not the party making the bid, an agreement from a customer that would receive bill credits associated with the project;

6. For a shared distributed generation resources procurement, demonstration of experience fulfilling the obligations to subscribers of shared distributed generation resources.
  7. Demonstration of compliance with any other requirements of this Chapter that the Commission determines to be applicable to qualification.
- E. **Standard contract.** At the time the procurement announcement is issued for a procurement round, the Commission shall make the standard contract or contracts applicable for that procurement available. The standard contract shall be substantially similar to the applicable form included as Attachment A to this Chapter. The standard contract shall be developed in consultation with the standard buyer(s). The standard contract shall include provisions that commit the standard buyer and project sponsor to commercially reasonable behavior and shall establish milestones for projects. The standard contract shall also include an interconnection fee list and schedule to ensure that a project can proceed to commercial operation on a reasonable timeline.
- F. **Milestones.** A project must comply with the milestones contained in the applicable standard contract. At a minimum, the milestones must include a requirement that a project be commercially operable within 18 months of being awarded a contract. The Commission may grant an extension for failure to meet a milestone for good cause. If a project fails to meet a milestone, and an extension is not granted, the project sponsor is in default and the contract shall be cancelled. Any capacity associated with a cancelled project shall be added to the currently open procurement block or, if none is open, the capacity shall be added to the next procurement block. If a cancellation occurs after the end of the Block 5 procurement, Block 5 shall be reopened to procure the capacity amount associated with the cancelled contract.
- G. **Bidding Fees.** The Commission may require bidders to pay a reasonable and non-refundable bidding fee to defray the Commission's administrative costs. The bidding fee, which shall not exceed \$5 per kW of the project's nameplate capacity, or \$12,500 per project, shall be set forth in the procurement announcement for the applicable procurement round and shall be provided by bidders at the time their bid is submitted or as otherwise required by the procurement announcement.
- H. **Ensuring competition.** In the procurement announcement for each procurement round, the Commission shall set forth standards by which it will evaluate whether the solicitation is sufficiently competitive. If the Commission concludes that a solicitation is not sufficiently competitive, the Commission may procure an amount that is less than the procurement target, including not procuring any amounts in the round. To the extent the amount procured is less than the target for a given round, the difference shall be procured in subsequent procurement rounds.

If an insufficient number of unique bidders or projects is qualified for a procurement round, as determined by the Commission, the Commission may delay or cancel the procurement.

- I. **Bid evaluation and selection.** An offer, including the proposed distributed generation resource and bid offer rate, submitted in response to a procurement announcement is firm and binding upon the bidder.

Following a review of bids received in each of the procurement rounds pursuant to this Chapter, the Commission shall select one or more winning bids that, in the aggregate, meet the target procurement quantity for the block, subject to the provisions of this Chapter that allow for less than the target amounts to be procured. If there are multiple qualified and equivalent bids at the same bid offer rate, the Commission shall give preference to the bids that minimize the cost to the standard buyer or, if there is no difference in cost, preference shall be given to the bid that was submitted first.

The Commission shall evaluate a qualified bid for a project that is located on previously developed or impacted land at 90% of the offered rate. For the purposes of this subsection, “previously developed or impacted land” means areas covered by impervious surfaces, capped landfills or brownfield sites as defined by the Department of Environmental Protection. If a bid under this provision is accepted, the contract rate shall equal the contract rate for the block.

For any procurement round after the initial procurement round (Blocks 2-5), the Commission may establish additional incentives, including block incentive rates, for certain attributes of distributed generation resources including, but not limited to, incentives to support resources that pair with energy storage systems, development of dual-use projects, siting of resources that provide locational benefits to the distribution system and other siting criteria developed in consultation with the Department of Environmental Protection and the Department of Agriculture, Conservation and Forestry. Any such incentives shall be described in the procurement announcement for the block.

- J. **Initial Procurement Round (Block 1).** For the initial procurement round for (1) commercial and institutional and (2) shared distribution resources, the Commission shall accept bids for thirty (30) calendar days beginning on or before July 1, 2020 and review the bids based on the standards and requirements of this Chapter and the applicable procurement announcement. The Commission may select qualified bids in excess of the first block target for the resource sector if the Commission determines that the incremental procurement amount is in the public interest. If the Commission selects qualified bids in excess of the first block target, the target quantity to be procured in subsequent block procurements for that resource sector shall be reduced by the difference between the amount procured and the first block target. If the Commission selects bids totaling less than the first block target in the initial competitive procurement, the target quantity to be procured in subsequent block procurements for that resource sector shall be increased by the difference between the first block target and the amount procured.

The Commission shall structure the initial procurement round to ensure that the policy objectives of this Chapter are achieved in such a manner to maximize economic efficiency and minimize costs to ratepayers.

The Commission shall issue a public notice of the initial procurement results, which may be a Commission order or other form of notice, no later than thirty (30) calendar days after the end of the bid acceptance period. The notice shall include the name, sponsor,

size and location of each selected project, as well as the procurement round clearing price.

The applicable standard buyer shall enter into a contract with the project sponsor of each project procured in Block 1 for a term of 20 years at a contract rate equal to the applicable block rate. The block rate shall be applied as a bill credit to the commercial or institutional customer or to the subscribers of a shared distributed generation resource, as applicable, in accordance with this Chapter. For the unsubscribed output of a shared resource, a contract rate shall be paid to the project sponsor and shall reflect the value obtained by the standard buyer.

If, pursuant to this Chapter, no bids are accepted in the initial procurement round, the Commission shall:

1. Conduct a new initial round procurement within 9 months;
2. Study the reasons no bids were accepted and submit a report of its findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over energy matters.

**K. Subsequent Procurement Rounds (Blocks 2-5).** Subsequent to the initial procurement round (Block 1), the Commission shall conduct four additional procurement rounds for Blocks 2 – 5 for (1) commercial or institutional and (2) shared distributed generation resources. The target amount for each round shall be one-fourth (25%) of the difference between the aggregate target for the sector and amount procured in the initial procurement round. The Commission shall initiate each additional procurement round by issuing a procurement announcement for that round.

The block base rate for procurement Block 2 shall equal 97% of the clearing price determined by the initial procurement round. Each successive procurement block must have a block base rate equal to 97% of the block base rate for the preceding block.

The procurement process for Block 2 shall be commenced immediately following the completion of the Block 1 procurement process, and each subsequent block shall be commenced immediately following completion of the prior block process.

The applicable standard buyer shall enter into a contract with each project procured in Blocks 2 - 5 for a term of 20 years at a contract rate equal to the applicable block rate for the portion of the project output to which the block rate is applicable. The block rate shall be applied as a bill credit to the commercial or institutional customer or to the subscribers of a shared distributed generation resource, as applicable, in accordance with this Chapter. For the unsubscribed output of a shared resource, a contract rate shall be paid to the project sponsor and shall reflect the value for the output obtained by the standard buyer.

If, in order to meet a block target, the last contract to be awarded would result in a procurement amount that would exceed the capacity of that block's target, the contract may be awarded at the block contract rate for that block. The block is then closed and the above-target amount procured in the block is subtracted from the quantity available in the next block. If this occurs in Block 5, the contract may be awarded at the Block 5 contract rate and no further contracts may be awarded except pursuant to this Chapter.

- L. **Failure to complete timely procurement.** If any procurement block remains unfilled after more than 12 months from the date the previous block was filled, the Commission shall suspend further procurements pending completion of the process described below:
1. The Commission shall review and may amend this Chapter or the standard contract and conduct a new competitive procurement for contract amounts equal to or greater than the Block 1 targets. The Commission shall publish any amendments to its rules or the standard contract and establish a new bid acceptance period for not less than 6 months and not more than 9 months.
  2. The Commission shall accept bids for 30 calendar days from the bid acceptance date established in the preceding paragraph and review the bids in accordance with the provisions of this Chapter. The Commission may select qualified bids in excess of the Block 1 target if it determines that the incremental procurement is in the public interest. Any amounts selected in excess of the Block 1 target shall reduce the procurement targets in the subsequent block.
  3. The Commission shall issue a public notice of the procurement results no later than 30 calendar days after the bid acceptance period has ended. The public notice shall include the name, sponsor, size and location of each selected project and the awarded contract price.
  4. The applicable standard buyer shall enter into a contract with the project or projects selected under this subsection in accordance with this Chapter.
  5. The Commission shall continue with procurements unless no contracts are awarded pursuant to this subsection. If no contracts are awarded pursuant to the first solicitation conducted pursuant to this subsection, the Commission shall conduct another solicitation under this subsection with the bid acceptance period to open approximately 12 months after the bid acceptance period for the first solicitation. In this event, the Commission shall also examine the reasons for the inability of the procurement to secure the target amount and submit a report of its findings and any recommended legislation to the joint standing committee of the legislature having jurisdiction over energy matters.

## § 8 RENEWABLE ENERGY CREDITS

- A. **Standard disclosure.** The Commission shall adopt by order standard disclosure forms to be distributed by a project sponsor to all subscribers and potential subscribers that provides a description of the effect of selling the renewable attributes and an explanation of how a subscriber may participate in the voluntary renewable energy credit market. The Commission may approve modifications to the standard disclosure forms. The Commission delegates to the Director of Electric and Gas Industries the authority to adopt standard renewable energy credits disclosure forms and modifications to the standard REC disclosure forms.
- B. **Purchase of renewable energy credits.** The Commission shall establish a mechanism to allow a subscriber with a share of less than 25 kilowatts to purchase renewable energy credits up to the amount of and of a substantially equivalent type to that which the subscriber has sold to the standard buyer at a price equal to 80% of market value.

---

**§ 9 CONSUMER PROTECTION**

- A. **Applicability.** This section applies to shared distribution generation projects. A project sponsor shall comply with the consumer protection provisions of this Chapter and all applicable provisions of Maine law. For purposes of this Chapter, the obligations and requirements of a project sponsor in this regard shall also apply to representatives or agents that act on behalf of a project sponsor. Project sponsors are responsible for violations of the provisions of this section by representatives or agents acting on their behalf.
- B. **Trade Practices.** Individuals or entities subject to this section must comply with the provisions of the *Maine Unfair Trade Practices Act*, Title 5, chapter 10 and related consumer protection statutes. Any finding by an entity of competent jurisdiction that any such individual or entity violated either the Maine or *Federal Unfair Trade Practices Act* is deemed to be a violation of this subsection.
- C. **Registration.** Individuals or entities subject to this section shall register with the Commission. The Commission shall adopt standard registration forms and specific filing requirements and delegates this task to the Director of Electric and Gas Industries.
- D. **Financial Security.** The Commission may establish a financial security requirement for individuals or entities subject to this section. Any such financial security shall be held by the transmission and distribution utility in whose service territory the project is located. Upon a finding that an individual or entity has violated provisions of this section, the Commission may direct that amounts from the financial security be distributed to (1) subscribers for a refund of security deposits or advanced payments; (2) to subscribers for restitution of amounts paid in error or charges assessed in violation of this Chapter; and (3) to the Commission for payment of administrative penalties or any other sanction pursuant to this Chapter or applicable statutes. Prior to establishing financial security requirements pursuant to this provision, the Commission will provide an opportunity for interested persons to comment on whether a financial security requirement should be established, the amount of any such financial security requirement, and the type of security that should be allowed.
- E. **Standard Disclosures.** Prior to the sale or resale of a subscription in a shared distributed generation resource, a project sponsor must provide a disclosure that, at a minimum, contains the following:
1. A good faith estimate of the annual kilowatt-hours to be received from the shared distributed generation resource based on the size of and expected output from the resource and a subscriber's subscription;
  2. A plain language explanation of how a subscriber's bill credit will be calculated and applied;
  3. A plain language explanation of requirements relating to the disposition or transfer of a subscription; and



4. A plain language explanation of the costs and benefits to a potential subscriber, based on the subscriber's current electricity usage, for the term of the proposed subscription agreement.

The Commission shall adopt by order standard disclosure forms to be used by a project sponsor when marketing subscriptions to customers. The Commission may approve modifications to the standard disclosure forms. The Commission delegates to the Director of Electric and Gas Industries the authority to adopt standard disclosure forms and modifications to the standard disclosure forms.

- F. **Sanctions.** Individuals or entities that violate the provisions of this section are subject to sanctions. Sanctions may be imposed following a hearing before the Commission in conformance with Title 5 M.R.S., Chapter 375, subchapter IV (*Maine Administrative Procedure Act*) and Chapter 110 of the Commission's rules.

1. **Participation in Distributed Generation Procurement.** The Commission may prohibit individuals or entities subject to this section from participating in any distributed generation procurements under this Chapter.
2. **Cease and Desist Orders.** The Commission may issue a cease and desist order if the Commission finds that any individual or entity subject to the requirements of this section has engaged or is engaging in any act or practice in violation of any law or rule administered or enforced by the Commission or any lawful order issued by the Commission. A cease and desist order is effective when issued unless the order specifies a later effective date or is stayed pursuant to Title 5, section 11004.
3. **Restitution.** The Commission may order restitution to be provided by an individual or entity to any party injured by a violation of this section.
4. **Administrative Penalties.** The Commission may impose administrative penalties pursuant to Title 35-A, Chapter 15 that it determines appropriate taking into account the facts and circumstances related to the violation.
5. **Waiver.** The Commission may waive the imposition of sanctions upon a showing that the violation was immaterial, unintentional, or that the individual or entity acted in good faith to comply with all applicable statutory and regulatory requirements.

## § 10 DISPUTE RESOLUTION

An investor-owned transmission and distribution utility, commercial or institutional customer, project sponsor, or subscriber may dispute any matter governed by this Chapter by filing a Notice of Dispute with the Commission. A transmission and distribution utility, a customer or a project sponsor must engage in good faith efforts to resolve the dispute before a Notice of Dispute is filed. The Commission or the Consumer Assistance and Safety Division shall resolve disputes filed pursuant to this section.

**§ 11 WAIVER PROVISIONS**

Upon the request of any person subject to this Chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this Chapter that is not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Director Electric and Gas Utility Industries, or the Presiding Officer assigned to a proceeding related to this Chapter may grant the waiver.

---

STATUTORY AUTHORITY: 35-A M.R.S. §§ 104, 111, 1301, 3488; Public Law 2019 ch. 478.

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on December 23, 2019. It was filed with the Secretary of State on December 24, 2019 and became effective on December 29, 2019 (filing 2019-271).