

- 1) **QUESTION:** In marketing to large commercial customers with multiple meters and accounts, one or more of which may be classified as a “small commercial” rate class, do the consumer protections in Chapter 313, Section 4(a) apply?

**ANSWER:** The consumer protections in Chapter 313, Section 4(a) explicitly apply to residential and small commercial customers. A waiver of this provision of the rule can be requested for circumstances in which the marketing is to a "large customer," which has multiple accounts, some of which are small commercial accounts.

- 2) **QUESTION:** Does the disclosure form need to be provided in initial marketing contacts?

**ANSWER:** The disclosure form must be provided to the customer before entering into any binding contract or commitment with the project sponsor, developer or marketer.

- 3) **QUESTION:** Are project sponsors the only ones required to register?

**ANSWER:** No. Any Project Sponsor, Representatives or Agents for a Project Sponsor or any entity that markets a financial interest in NEB projects to residential or small commercial customers or Shared DG projects are also required to register [here](#) prior to marketing to customers/subscribers.

- 4) **QUESTION:** Will I receive a confirmation of my registration?

**ANSWER:** To confirm your registration, look [here](#) at the List of Registered Project Sponsors, Marketers, etc. If you made an error in registration, or you have had a change of information, please email us at [EnergyDeveloperFAQ@maine.gov](mailto:EnergyDeveloperFAQ@maine.gov).

- 5) **QUESTION:** May we excerpt paragraphs from the disclosure and integrate them into our consumer contracts?

**ANSWER:** The disclosure form must be presented to the customer in its entirety. Developers are free to excerpt language from the disclosure form in their contracts, but they must also provide the disclosure form in its entirety as a separate document.

- 6) **QUESTION:** The first Safe Harbor requirement states “Facilities must not share development or EPC contractors or other resources unless a developer can demonstrate that doing so provides no economies of scope or scale.” Would it be acceptable for a developer to simply affirm in the affidavit that a shared resource between two projects (e.g, contractor or engineer) provides no economies of scope or scale? Or should the developer also provide documentation of this to the utility along with the affidavit? If the utility will be reviewing this documentation, when/how can two projects receive confirmation that their documentation is acceptable and the projects qualify for Safe Harbor status (in order to ensure that development can move forward)?

**ANSWER:** The affidavit provided to the utility at the time of application for NEB requires the Project Sponsor to certify that the Facility has met or will meet all of the qualification

requirements of Chapter 313, which includes meeting the definition of being a Discrete Electric Generating Facility. A Project Sponsor who is relying upon the Safe Harbor provision set forth in the Commission's Advisory Ruling in Dockets in 2020-00187 and 2020-00188 must state in the affidavit that its project meets the criteria in the Safe Harbor provision. The application does not require the Project Sponsor to provide documentation in support of its affidavit. A Project Sponsor who is unsure whether its project(s) qualify under the Safe Harbor criteria may seek an Advisory Ruling from the Commission.

7) Assuming a project is between 1-5 miles apart or the aggregate of multiple projects add up to 5 MWs or more, we would like some clarification on the following questions:

a. **QUESTION:** At what development point does a developer of record need to show evidence of discrete ownership, under "Safe Harbor Criteria" between facilities that otherwise would be in conflict with the co-location order (2020-00187) on 9/24/20?

**ANSWER:** Please see the answer to question 6. The purpose of the Safe Harbor provision set forth in the Commission's Advisory Ruling in Dockets 2020-00187 and 2020-00188 is to provide a Project Sponsor who believes its project qualifies as a Discrete Electric Generating Facility pursuant to the criteria contained in the Safe Harbor to rely on that guidance, as affirmed in the affidavit provided to the utility at the time of application. There is no expectation that the Project Sponsor must provide evidence in support of the affidavit unless called upon to provide such evidence by the utility or the Commission.

b. **QUESTION:** How are the "closest points" defined. By radius or by the lines on the roads from POI to POI?

**ANSWER:** "Closest point" is determined by the distance between the perimeters of the project footprints at their closest points. For the purpose of determining this distance, the project footprint is the site of the facility itself as opposed to the Point of Interconnection (POI).

c. **QUESTION:** If we opted to decrease a project so that the aggregate total was less than 5 MWs within 1 to 5 miles, and we have a signed ISA, do we need to re-start our application process based on the rules under Chapter 324?

**ANSWER:** This question should be directed to the appropriate utility.

8) **QUESTION:** If we have two projects that we believe meet the criteria in the same way as Turning Point projects E and F (which the Commission ruled qualify under the Safe Harbor criteria), can those projects simply submit affidavits or do they need to go through their own Advisory Ruling process?

**ANSWER:** Please see the answers to questions 6 and 7. A Project Sponsor who believes its project(s) qualifies under the Safe Harbor criteria may submit an affidavit in support of its NEB application attesting that its project(s) meet the criteria. If the Project Sponsor is unsure whether its project(s) meets the Safe Harbor criteria, it may file a request for an advisory ruling with the Commission.

- 9) **QUESTION:** Is it possible for Project Sponsors to receive a receipt or confirmation of “pending” status? The context is that investors in the project, who are injecting capital into its continued development and construction, are looking for an assurance or some kind of acknowledgement that the project will be accepted under current rules and not be stranded if the program changes before the project is operational.

**ANSWER:** Project Sponsors may seek confirmation from the utilities as to the status of their projects and whether they have been included in the utilities’ reports to the Commission. The requirement set forth in section [3209-B\(A-6\) of Title 35-A](#), which required the utilities to report when the “total amount of generation capacity involved in net energy billing in the State reaches 10% of the total maximum load of transmission and distribution utilities in the State is reached” is a reporting requirement. The statute does not provide a process for providing assurances or acknowledgements of project acceptance based on status of their applications.

- 10) **QUESTION:** Is there a cap of 10% of total capacity on the current NEB program?

**ANSWER:** No. The current statute instructs the PUC to provide an evaluation to the legislature when the “total amount of generation capacity involved in net energy billing in the State reaches 10% of the total maximum load of transmission and distribution utilities in the State is reached. [P.L. 2019 c. 478; 35-A M.R.S. § 3209-B\(A-6\)](#). The Commission has provided a report in response to this statutory requirement on November 10, 2020. The report can be found [here](#). Additionally, the Commission commented on this issue in its [order dated July 28, 2020 in case 2019-00197](#).

- 11) **QUESTION:** How can I keep track of legislative and regulatory changes and guidance in relation to NEB and renewables development in Maine?

**ANSWER:** The Commission will generally use the notification lists from the following cases when trying to notify parties interested in Net Energy Billing and Renewable Energy Development:

- 2020-00033: COMMISSION INITIATED REQUEST FOR PROPOSALS FOR THE SALE OF ENERGY OR RENEWABLE ENERGY CREDITS FROM QUALIFYING RENEWABLE RESOURCES PERTAINING TO VERSANT POWER AND CENTRAL MAINE POWER COMPANY (TRANCHE 1).
- 2021-00004: COMMISSION INITIATED REQUEST FOR PROPOSALS FOR THE SALE OF ENERGY OR RENEWABLE ENERGY CREDITS FROM QUALIFYING RENEWABLE RESOURCES PERTAINING TO VERSANT POWER AND CENTRAL MAINE POWER (TRANCHE 2)
- 2019-00197: AMENDMENTS TO CHAPTER 313 - NET ENERGY BILLING
- 2020-00199: PUBLIC UTILITIES COMMISSION INQUIRY REGARDING NET ENERGY BILLING EVALUATION

We also encourage you to watch the “Announcements” section on our “Programs for Small Solar, Community and Other Renewable Energy Projects”, located [here](#).

To learn more about legislation from the “Energy, Utilities and Technology Committee”, join its mailing list by following the instructions on the Maine Legislature’s website [here](#).

- 12) QUESTION:** There are many options for a residential or a C & I customer in Maine as to where they purchase their electricity. A quick look at the list of retail energy suppliers in Maine reveals a long list of existing suppliers.

<https://www.maine.gov/mpuc/electricity/cmp-large-commercial.shtml>

If a company already has an existing agreement with one of the suppliers, are they able to subscribe to one of our solar projects? Or do they need to be getting their power from CMP directly? It is difficult for us as a developer to know who to target. It would be a waste of time and resources to target companies only to find out they are registered with a 3rd party supplier that won’t allow a PPA with a solar project.

**ANSWER:** The Commission deals with the issues of CEPs and Net Energy Billing in [Chapter 313, § 3 J and K](#). The Commission does not know of or maintain a list of CEPs that are willing and/or able to allow their customers to participate in Net Energy Billing arrangements.

- 13) QUESTION:** Is the PUC assisting in any way in matchmaking with subscribers? Is the PUC promoting the NEB program in any way?

**ANSWER:** If by “matchmaking” the question is asking whether the Commission facilitates the pairing of subscribers to specific NEB projects or Project Sponsors, the answer is “no”. The Commission endeavors to provide clear and accurate information about the NEB program, and has no comment on the extent to which this promotes the program.

- 14) QUESTION:** Would a 4.9 MW project in Bangor Hydro District qualify as a “Medium Commercial or Industrial” or “Large Commercial or Industrial” tariff?

**ANSWER:** The applicable tariff rate depends on the rate classification of the customer that will be receiving the bill credit, not the size of the project

- 15) QUESTION:** When participating in the NEB program, can the PV system owner choose whether to utilize the kWh program or the tariff program? If not, how do I know which one would apply?

**ANSWER:** Under Chapter 313 Net Energy Billing rules, residential ratepayers are only eligible for the kWh credit program. Commercial or Institutional Customers can choose between the tariff rate or kWh credit program.

- 16) QUESTION:** If a system owner uses the NEB program, do the renewable energy credits (RECs) automatically go to the Utility, or does the system owner retain the RECS?

**ANSWER:** Under Chapter 313 Net Energy Billing rules, the value of NEB facility RECs does not flow to the utility. Any arrangements involving RECs between the developer and project sponsor, or the developer and subscribers/customers, are not governed by PUC rule.

**17) QUESTION:** If the system owner can sell the RECs, what is the market rate for one REC?

**ANSWER:** The monetary value of RECS is a function of the market prices at which the RECs are sold. Market prices, which can vary over time, are not determined by the Commission.

**18) QUESTION:** Can a customer stay with a third party supplier for their supply portion of the bill or does the NEB Credit interfere?

**ANSWER:** Please see Section 3.J.6 of Chapter 313. Please note that no similar provision is included in Section 3.K of the rule.

**19) Question:** Is the 5 MW cap for most NEB projects measured on a DC or AC basis?

**Answer:** The Commission interprets the statute to intend that the 5 MW cap applies on an AC basis.

**20) Question:** Can my solar project in Northern Maine qualify for Class I/IA RECs?

**Answer:** Yes. Please see Commission Rules Chapter 311 §7 which can be found here: <https://www.maine.gov/mpuc/legislative/rules/part3-electric.shtml>

**21) QUESTION:** Our understanding is that under the NEB tariff rate program for non-residential customers, two separate rates apply. One is the rate agreed upon between the customer and the developer, which is billed to the customer based on customer load and the agreed upon terms – the PUC has no role in setting this rate. The second rate is the one determined annually by the PUC, which is the rate at which customers are credited monthly by the utility. Is this understanding correct?

**ANSWER:** Section 3(K)(1) of Chapter 313 provides that under the tariff rate program, a commercial or institutional customer "shall receive a bill credit equal to the tariff rate multiplied by the customer's share of the facility output during the applicable period. The bill credit shall apply against the total amount of the bill issued to the customer by the transmission and distribution utility. The bill credit may not result in a negative customer bill." Any arrangements involving compensation between the developer and project sponsor, or the developer and subscribers/customers, are not governed by PUC rule.

**22) QUESTION:** The tariff rate is set by the PUC every year. Does the rate at which customers are credited for a given project also change every year, or is a project locked in for the life of the project at the rate specified for the year in which it comes online?

**ANSWER:** The rate is calculated by January 1 each year for the Net Energy Tariff Rate Program. Under this program rates are not "locked in" for the life of the project.

**23) Question:** Can you please tell us if there is a term limit associated with either the ME NEB tariff or NEB credit programs? For example, if a customer purchases a PV system outright, will they be eligible for the ME NEB Tariff or ME NEB Credit program for as long as the system is operational (possibly over 20 yrs), or are the programs limited to a set amount of time (20 yrs for example).

**Answer:** Please see Ch. 313 § 3 N. “The standard contracts shall allow project sponsors or individual customers to choose a contract with a term length of up to twenty years. The standard contract shall include a provision that obligates the parties to negotiate in good faith to revise the contract terms if there is a change in statute or rule that materially alters any right or obligation of a contracting party.”

To follow regulatory and legislative changes that may be related to this rule, please see question 11 in this document.

**24) Question:** In a situation where a potential client (either residential or commercial) intends to subscribe to community solar but also decides to simultaneously switch utility providers from CMP to a third party or from one third party to another, for the most possible seamless transition which should happen first, switching utility provider or subscribing to the solar program? How does the enrollment process time cycle of the two effect or factor into the situation?

**Answer:** A reminder that CMP is a transmission and distribution only provider. We assume that the question is about switching from a Standard Offer provider to a Competitive Electricity Provider (CEP). A further reminder that CEPs are able, though not required, to allow for Net Energy Billing. As to the administrative questions of timing, these are best directed to the relevant T&D utility.

**25) Question:** Section 7.J of Chapter 312 states “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.” How is this rate being set?

**Answer:** Chapter 312 refers to the Commission Rules that govern the Distributed Generation procurement. The Commission issued a Procurement Announcement in Docket Number 2021-00108, which explains that the program is on hold pending potential action from the Legislature.

**26) Question:** In the NEB Tariff Rate Program, can the credits be applied to sales tax?

**Answer:** It is the Commission’s understanding that the T&D utilities apply the credit to any and all charges on the customer’ bill, including sales tax.

**27) Question:** A project which is less than 1 MW in size is scheduled to go online in Q4 22 or Q1 23. Would it receive the “rate in effect on December 31, 2020” with an annual 2.25% increase?

**Answer:** A project which is 1 MW or less in size will receive the rate in effect as “established under section 3212 that is applicable to the customer receiving the credit plus 75% of the effective transmission and distribution rate for the rate class that includes the smallest commercial customers of the investor-owned transmission and distribution utility”. Those rates can be found [here](#) under “Net Energy Tariff Rates”, and will be updated on an annual basis.