**65-407 PUBLIC UTILITIES COMMISSION**

**Chapter 396: EFFICIENCY MAINE TRUST PROCUREMENT FUNDING CAP**

**SUMMARY**: This chapter establishes the process and requirements for determining and applying the statutory cap on transmission and distribution utility rates for procurement of energy efficiency resources.

**§ 1 PURPOSE**

The purpose of this chapter is to establish the process and requirements by which the Commission will determine the statutory cap of 4% of the total retail electricity and transmission and distribution sales for the procurement electric energy efficiency resources pursuant to Title 35-A, section 10110(4-A).

**§ 2 DEFINITIONS**

 A. **Assessments**. “Assessments” means the assessments made by the Commission pursuant to 35-A M.R.S. § 10110(4).

 B. **Commission**. "Commission" means the Maine Public Utilities Commission.

 C. **Efficiency Maine Trust**. “Efficiency Maine Trust” means the entity established by Legislature pursuant to Title 35-A, section 10103(1) for the purposes of developing, planning, coordinating and implementing energy efficiency and alternative energy resources programs in the State.

 D. **External Funds**. “External Funds” means funds received by or due to the transmission and distribution utilities from external sources, including Maine Yankee Funds or other proceeds from legal actions that have been or will be transferred to the Efficiency Maine Trust.

 E. **Long-Term Contract Funds**. “Long-Term Contract Funds” mean amounts transferred from transmission and distribution utilities to the Efficiency Maine Trust pursuant to Commission order in Docket No. 2012-00408 or other Commission orders pursuant to Title 35-A, section 3210-C.

 F. **Maine Yankee Funds**. “Maine Yankee Funds” means funds pursuant to a damage award received by transmission and distribution utilities pursuant to litigation with the United States Department of Energy concerning the removal and storage of spent nuclear fuel related to the Maine Yankee Atomic Power Company.

 G. **Procurement Order**. “Procurement Order” means an order of the Commission directing transmission and distribution utilities to transfer funds to the Efficiency Maine Trust for purposes of electric efficiency and conservation program funding pursuant to Title 35-A, section 10110, subsection (4-A).

 H. **Transmission and Distribution Utility**. "Transmission and distribution utility" means a person, its lessees, trustees, receivers or trustees appointed by a court, owning, controlling, operating or managing a transmission and distribution plant for compensation within the State.

 I. **Triennial Plan**. "Triennial Plan" means the Efficiency Maine Trust’s energy efficiency plan required under Title 35-A, section 10104, subsection 4.

**§ 3 UTILITY ENERGY EFFICIENCY PROCUREMENT CAP**

A. **Utility Procurement Obligation.** Each transmission and distribution utility shall comply with a Procurement Order to procure all electric energy efficiency resources found by the Commission to be cost-effective, reliable and achievable pursuant to Title 35-A, section 10104, subsection 4, subject to the Utility Procurement Cap.

 B. **Utility Procurement Cap**. The Commission may not issue a procurement order that results in an amount in rates for electric energy efficiency resources that exceeds 4% of total retail electricity and transmission and distribution sales in Maine.

C. **Determination of Amount of Sales Revenue.** The total retail electricity and transmission and distribution sales in Maine shall be determined using the revenue from retail sales as reported for the State of Maine by the U.S. Energy Information Administration (EIA) in its Form EIA-861for the most recent available year. The Commission may use alternative sources of revenue from retail sales upon a finding that an alternative source of information has equivalent or greater reliability, is readily available, and reflects more recent retail sales. In determining the total retail electricity and transmission and distribution sales revenue, the Commission shall exclude all revenue included in utility rates from prior Procurement Orders, Assessments, Long-Term Contract Funds, or other amounts associated with funding for Efficiency Maine Trust electric energy efficiency programs.

 D. **Determination of Amounts in Rates.** In determining that the amount in rates for electric energy efficiency resources does not exceed 4% of total retail electricity and transmission and distribution sales, the Commission shall:

 1. **Procurement Order Funds**. Include all amounts that will be in utility rates during the applicable Procurement Order period related to prior or current Procurement Orders issued pursuant to budgets in approved in Triennial Plans.

 2. **Long-Term Contract Funds.** Include all amounts that will be in utility rates during the applicable Procurement Order period related to Long-Term Contract Funds.

 3. **Other Funds**. Include all other amounts that will be in utility rates during the applicable Procurement Order period for Efficiency Maine Trust administered electric energy efficiency programs as reflected in approved Triennial Plans.

 4. **External Funds.** Exclude External Funds.

 E. **Determination of Procurement Cap.** The Utility Procurement Cap for each fiscal year of the Efficiency Maine Trust’s Triennial Plan shall be 4% of total retail electricity and transmission and distribution revenue in Maine as set forth in Section 3(C) above.

 F. **Utility Annual Report**. Each transmission and distribution utility shall file an annual report by March 1st of each year that contains all revenue included in utility rates for Efficiency Maine electric energy efficiency programs, including from prior Procurement Orders, Assessments, Long-Term Contract Funds, or other amounts associated with funding for electric energy efficiency programs, (i) during the two prior calendar years and (ii) expected during the fiscal year beginning July 1st of the current year.

 G. **Cost Recovery.** The cost of procurement of cost-effective electric energy efficiency resources pursuant to this chapter constitutes a just and reasonable utility expense that shall be recovered through transmission and distribution utility rates.

**§ 4 WAIVER OR EXEMPTION**

 Upon request of any person subject to the provisions of 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 of 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, 10110(4-A).

**EFFECTIVE DATE:** This rule was approved as to form and legality by the Attorney General on January 26, 2016. It was filed with the Secretary of State on January 27, 2016 and became effective on February 1, 2016 (filing 2016-015).