

**SUMMARY:** This rule establishes the requirements and terms for net energy billing.

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## § 1 PURPOSE

The purpose of this Chapter is to implement the State's policy to encourage electricity generation from renewable resources through the adoption of requirements and standards for customer net energy billing.

## § 2 DEFINITIONS

- A. **Competitive Electricity Provider.** "Competitive electricity provider" means a marketer, broker, aggregator, or any other entity selling electricity to the public at retail in Maine.
- B. **Consumer-owned Transmission and Distribution Utility.** "Consumer-owned transmission and distribution utility" has the same meaning as specified in Title 35-A M.R.S.A. §3201(6).
- C. **Customer.** "Customer" means a person or an entity that takes electricity service through a transmission and distribution utility.
- D. **Customer Usage Behind the Meter.** "Customer usage behind the meter" means a customer's kWh usage in any billing period that is met or offset by energy from the customer's eligible facility.
- E. **Eligible Customer.** "Eligible customer" means a customer that is eligible for net energy billing under this Chapter.
- F. **Eligible Facility.** "Eligible facility" means an electric generating facility that uses a renewable fuel or technology as specified in 35-A M.R.S.A. §3210(2)(C) or is a micro-combined heat and power system.
- G. **Gross Output.** "Gross output" means all of the energy generated by an eligible facility during an applicable period, including all energy that is used to offset the usage of eligible customers.
- H. **GIS Certificates.** "GIS certificates" means certificates created pursuant to the NEPOOL Generation Information System that represent attributes of electric power and that may be traded separately from the energy commodity.
- I. **Micro-Combined Heat and Power System.** "Micro-Combined Heat and Power System" means a system that:
  - 1. Produces heat and electricity from one fuel input, without restriction to specific fuel or generating technology;
  - 2. Has an electric generating capacity rating of at least one kilowatt and not more than 30 kilowatts and a fuel system efficiency of not less than 80% in the production of heat and electricity or has an electric generating capacity of at least 31 kilowatts and not more than 660 kilowatts and a fuel system efficiency of not less than 65% in the production of heat and electricity;

3. May work in combination with supplemental or parallel conventional heating systems;
  4. Is manufactured, installed and operated in accordance with applicable government and industry standards; and
  5. Is connected to the electric grid and operated in conjunction with the facilities of a transmission and distribution utility.
- J. **Net Energy.** "Net energy" means the difference between (i) the kilowatt-hours consumed by a customer or shared ownership customer over a billing period and (ii) the customer's nettable energy.
- K. **Net Energy Billing.** "Net energy billing" means a billing and metering practice under which eligible customers are billed on the basis of net energy.
- L. **Nettable Energy.** "Nettable energy" means the energy in kilowatt-hours generated by an eligible facility that may be netted against a customer's kilowatt-hour consumption in accordance with this Rule.
- M. **Ownership Interest.** "Ownership interest" means a legally enforceable ownership interest or legally enforceable rights and obligations in an eligible facility.
- N. **Renewable Energy Credits (RECs).** "RECs" has the same meaning as defined in statute at 35-A §3210-C (1)(E).
- O. **Shared Ownership Customers.** "Shared ownership customers" mean customers that have a shared ownership interest in an eligible facility.
- P. **Shared Ownership Interest.** "Shared ownership interest" means a legally enforceable ownership interest in, or legally enforceable rights and obligations for, an eligible facility by which a shared ownership customer has the rights to a portion of the output, and the obligation for a portion of the costs, of a shared ownership facility. A shared ownership interest must be sized to represent a least one kilowatt of the capacity of the shared ownership facility.
- Q. **Shared Ownership Facility.** "Shared ownership facility" means an eligible facility in which more than one customer has a shared ownership interest.
- R. **Standard Offer Provider.** "Standard offer provider" means a provider of standard offer service chosen pursuant to Chapter 301 of the Commission's rules.
- S. **Supply Bill.** "Supply bill" means an eligible customer's bill, over a billing period, for standard offer or competitive electricity provider supply service.
- T. **T&D Bill.** "T&D bill" means an eligible customer's bill, over a billing period, for transmission and distribution utility service.

- U. **Transmission and Distribution Utility.** "Transmission and distribution utility" has the same meaning as specified in Title 35-A M.R.S.A. §102(20-B).

### § 3 NET ENERGY BILLING REQUIREMENTS AND PROCESSES

- A. **Customer Qualification.** Any eligible customer may elect net energy billing for the customer's accounts or meters within the transmission and distribution utility's service territory.
- B. **Shared Ownership Customers Qualification.** Shared ownership customers may elect net energy billing pursuant to the requirements of this subsection.
1. **Ownership Interest.** Shared ownership customers must have a legally enforceable ownership interest or legally enforceable rights and obligations in the eligible facility under which the customers have joint responsibility for the costs of the shared ownership facility and have the rights to the benefits of the output of the shared ownership facility in proportion to the cost responsibilities.
  2. **Contact Person.** Shared ownership customers must designate a single contact person to be responsible for all communications with the transmission and distribution utility regarding the shared ownership net energy billing arrangement. The contact person shall promptly inform the transmission and distribution utility of any material changes to the joint ownership interests or arrangements of the shared ownership customers, including any changes in the meters or accounts subject to net energy billing.
  3. **Competitive Electricity Provider.** A participant in a shared ownership net energy billing arrangement pursuant to this section shall not be considered a competitive electricity provider under Title 35-A, chapter 32.
  4. **Application.** Shared ownership customers must submit to the transmission and distribution utility an application for a net energy billing arrangement that contains the information specified in this subsection and other information that the transmission and distribution may reasonably require.
    - a. **Customer identities.** A list of the names, addresses, telephone numbers and account numbers of each of the shared ownership customers.
    - b. **Ownership interest.** Documentation that the shared ownership customers have a valid ownership interest in the shared ownership facility as required by this section, including the proportional ownership of each shared ownership customer.
    - c. **Contact person.** The name, mailing address, telephone number, and e-mail address of the shared ownership customers' contact person.
    - d. **Accounts.** A designation of the accounts or meters that will be subject to the shared ownership net energy billing arrangement.

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- e. **Facility.** A description of the shared ownership facility, including the facility's location, capacity, and fuel type or generating technology.
5. **Eligibility Dispute.** A transmission and distribution utility may dispute the customers' eligibility for shared ownership net energy billing arrangement under this section by filing a Notice of Dispute with the Commission. The transmission and distribution utility must file a Notice of Dispute within 21 days of the submission of an application for a shared ownership net energy billing arrangement.
6. **Consumer-owned Utility Exemption.** Consumer-owned transmission and distribution utilities are not required to provide shared ownership net energy billing arrangements pursuant to this section. Consumer-owned transmission and distribution utilities may elect to provide shared ownership net energy billing arrangements in accordance with this section.
- C. **Eligible Facilities.** An eligible facility located in a service territory of an investor-owned transmission and distribution utility must have an installed capacity of 660 kW or less. An eligible facility located in a service territory of a consumer-owned transmission and distribution utility must have an installed capacity of 100 kW or less unless the consumer-owned transmission and distribution utility elects to allow facilities with an installed capacity of up to 660 kW. An eligible facility must be used primarily to offset the customer's, or shared ownership customers', own electricity requirements.
- D. **Service Territory.** The eligible facility and the customer and shared ownership customer accounts subject to net energy billing must be located within a service territory of the same transmission and distribution utility.
- E. **Nettable Energy for Customers that are Existing Customers as of December 31, 2017.** One hundred percent of the gross output of an eligible facility is nettable energy for customers with a net energy customer effective date on or before December 31, 2017, and will remain at this level through December 31, 2032. After December 31, 2032, nettable energy is (i) one hundred percent of the gross output for determining net energy for the customer's supply bill and (ii) zero percent of the gross output for determining net energy for the customer's T&D bill.
- F. **Nettable Energy for Customers that are New Net Energy Billing Customers After December 31, 2017.** For customers with a net energy customer effective date after December 31, 2017, nettable energy will be determined as set forth below:
1. **Supply Bill.** For the purpose of determining net energy for the supply bill, nettable energy is one hundred percent of the gross output of an eligible facility.
  2. **T&D Bill.** For the purpose of determining net energy for the T&D bill, nettable energy is the portion of the gross output of an eligible facility set forth in the table below:

T&D Bill Nettable Energy	Percent of Output that is Nettable	Applicable Through December 31 of Year Show n
For existing NEB Customers as of December 31, 2017	100%	2032
For customers that become NEB Customers during calendar year 2018	90%	2033
For customers that become NEB Customers during calendar year 2019	80%	2034
For customers that become NEB Customers during calendar year 2020	70%	2035
For customers that become NEB Customers during calendar year 2021	60%	2036
For customers that become NEB Customers during calendar year 2022	50%	2037
For customers that become NEB Customers during calendar year 2023	40%	2038
For customers that become NEB Customers during calendar year 2024	30%	2039
For customers that become NEB Customers during calendar year 2025	20%	2040
For customers that become NEB Customers during calendar year 2026	10%	2041
For customers that become NEB Customers after calendar year 2026	0%	NA

- G. **Term.** The applicable nettable energy percentages set forth above shall apply for the period beginning on the customer's net energy customer effective date and ending on December 31 of the year indicated. After this period, nettable energy is (i) one hundred percent of the gross output for determining net energy for the customer's supply bill and (ii) zero percent of the gross output for determining net energy for the customer's T&D bill.
- H. **Effective Date.** The effective date applicable to a customer or shared ownership customer shall be the date that the customer's eligible facility is placed in service.
- I. **Billing Requirements.** For eligible customers that have elected net energy billing, transmission and distribution utilities must bill on the basis of net energy in accordance with the following provisions:
1. **Excess Nettable Energy.** If the nettable energy generated during the billing period by the eligible facility plus any kilowatt-hour credits from prior billing periods exceeds a customer's or the shared ownership customer's kilowatt-hour usage during the billing period, the customer shall be billed on the basis of net energy kilowatt-hours equal to zero, and the excess nettable energy shall be applied to the customer's or the shared ownership customer's bill for the following billing period to determine net energy for that billing period, subject to the 12-month period set forth in subparagraph 3..
  2. **Excess Usage.** If a customer's or shared ownership customer's kilowatt-hour usage exceeds the sum of (i) nettable energy generated by the eligible facility during the billing period and (ii) any excess nettable energy pursuant to subparagraph 1, the customer or the shared ownership customers shall be billed

on the basis of net energy at the applicable retail rates for electricity supply and T&D service.

3. **Unused Credits.** A customer or shared ownership customers may accumulate unused nettable energy kilowatt-hours and apply them against kilowatt-hour usage within a given 12-month period. At the end of each 12-month period, any accumulated unused nettable energy shall be eliminated and may not be applied against any future usage by the customer or shared ownership customers. The customer or the shared ownership customers will receive no compensation for unused nettable energy.
  4. **Non-usage Charges.** Net energy billing only applies to kilowatt-hour usage charges. Net energy billing customers or the shared ownership customers are responsible for all other charges applicable to the customer's T&D rate class or supply service and recovered either through fixed amounts or over units other than kilowatt-hours.
  5. **Shared Ownership Billing.** The transmission and distribution utility shall allocate the nettable energy of the shared ownership facility to customers in proportion to each customer's ownership interest in the facility. The transmission and distribution utility may place shared ownership customers on the same billing cycle.
  6. **Limit on Accounts.** Customers or shared ownership customers may designate no more than 10 accounts or meters for net energy billing.
  7. **Uniform Billing Cycle.** If a single customer or a shared ownership customer has multiple net energy billing accounts the transmission and distribution utility may place those accounts on a uniform billing cycle.
- J. **Competitive Electricity Provider Billing.** A customer or shared ownership customer that elects net energy billing may obtain supply service from any competitive electricity provider that agrees to provide service on a net energy basis. If a competitive electricity provider enrolls a net energy billing customer, the competitive electricity provider shall provide service on a net energy basis.
- K. **Standard Offer Provider Service.** If the customer or the shared ownership customers receive standard offer service, the standard offer provider shall provide service on a net energy basis.
- L. **Additional Meters and Equipment.** Nothing in this section shall prohibit a utility from installing additional meters to record gross output and customer usage separately, provided, however, that no customer that is billed on a net energy basis shall be charged for the cost of the additional meters or other necessary equipment.
- M. **Interconnection Requirements.** A customer or shared ownership customers that elects net energy billing must comply with all interconnection, safety and reliability requirements of the transmission and distribution utility applicable to the eligible facility.



- N. **Standard Contract and Application.** Each transmission and distribution utility shall develop a standard contract and application form for customer net billing consistent with the provisions of this Chapter. The standard contract shall allow customers to choose a contract with no specified term or with a term length of up to ten years. In the event a customer chooses a contract term length, the 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.

#### § 4 Renewable Energy Credit (REC) Aggregation Option

- A. **New Renewable Resource Certification.** An eligible facility, except for micro-combined heat and power systems that do not use a renewable fuel or technology as specified in 35-A M.R.S.A. §3210(2)(C), shall be deemed to be certified as a new renewable resource (Class 1) pursuant to Chapter 311 of the Commission's rules and exempt from the requirements of Section B(4) of that rule if the eligible facility:
1. has a net energy customer arrangement effective date on or after January 1, 2018 and
  2. conforms to Section 3(C) of this Rule.
- B. **Option.** An eligible customer or shared ownership customer with a facility certified pursuant to Section 4(A) of this Rule may elect to have the RECs associated with its facility aggregated by the transmission and distribution utility and sold into the regional market. All proceeds realized from such REC sales shall be returned to customers that participate in REC aggregation pursuant to this section as a credit on their T&D bills.
- C. **GIS Certificates.** A customer that participates in REC aggregation pursuant to this section must allow the GIS certificates associated with its facility to be transferred to the transmission and distribution utility. The transmission and distribution utility shall retire the quantity of GIS certificates needed for the customer's usage behind the meter to conform to the new renewable resource requirement pursuant to Chapter 311(3)(A) of the Commission's rules. A customer that does not participate in REC aggregation pursuant to this Rule is not required to transfer any of the GIS certificates associated with its facility to the transmission and distribution utility.
- D. **Terms and Conditions.** Transmission and distribution utilities shall develop terms and conditions to govern REC aggregation for net energy billing customers.
- E. **Administrative Costs.** The treatment of the costs for the transmission and distribution utility in administering REC aggregation will be established by Commissioner Order.
- F. **Consumer-owned Utility Exemption.** Consumer-owned transmission and distribution utilities are not required to provide a REC aggregation option pursuant to this section. Consumer-owned transmission and distribution utilities may elect to provide a REC aggregations option in accordance with this section.

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## § 5 REPORTING AND COMMISSION REVIEW

- A. **Commission Review.** A transmission and distribution utility shall notify the Commission if the cumulative capacity of eligible facilities in its service territory subject to the provisions of this Chapter reaches three percent of its peak demand. Upon notification, the Commission will review this Chapter to determine whether net energy billing pursuant to this Chapter should continue or be modified.
- B. **Biannual Report.** On March 1 and September 1 of each year, transmission and distribution utilities shall file with the Commission a biannual net energy billing report. The March 1 report shall reflect the prior calendar year and the September 1 report shall reflect the prior July through June period. The biannual net energy billing report shall include: (1) a list of all net energy billing arrangements in the transmission and distribution utility's service territory; (2) the capacity, energy output and fuel type or generating technology of each eligible facility; (3) the number of accounts or meters associated with each shared ownership net energy billing arrangement; (4) an estimate of the revenue loss associated with the net energy billing arrangements; and (5) estimated installed costs per watt<sub>DC</sub> for eligible facilities, including costs for recently installed facilities and projected costs for facilities over the next several years.

## § 6 WAIVER OR EXEMPTION

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 of Electric and Gas Utility Industries, or the Presiding Officer assigned to a proceeding related to this Chapter may grant the waiver.

**BASIS STATEMENT:** The factual and policy basis for this rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2016-00222, issued March 1, 2017; Commission's Order Adopting Final Rule, Docket No. 2011-398, issued on 1/11/12; Commission's Order Adopting Final Rule, Docket No. 2008-410, issued on June 9, 2009; Commission's Statement of Factual and Policy Basis and Order Adopting Rule, Commission Docket No. 98-621, issued on December 10, 1998; and Order Adopting Provisional Rule and Statement of Factual and Policy Basis, Commission Docket No. 2008-410, issued on January 8, 2009. Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 101 Second Street, Hallowell Maine 04347, 18 State House Station, Augusta, Maine 04333-0018.

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STATUTORY AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 1301, 3203(9), 3209-A and 3210

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on December 15, 1998. It was filed with the Secretary of State on December 15, 1998 and became effective on December 20, 1998.

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on June 10, 2009. It was filed with the Secretary of State on June 15, 2009 as filing 2009-249, and became effective on July 15, 2009.

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on January 20, 2012. It was filed with the Secretary of State on January 24, 2012 as filing 2012-7, and became effective on January 29, 2012.