

**§3209-B. Commercial and institutional net energy billing**

The commission shall establish by rule, in accordance with this section, a net energy billing program for commercial and institutional customers of investor-owned utilities. [PL 2019, c. 478, Pt. A, §4 (NEW).]

**1. Definitions.** As used in this section, the following terms have the following meanings.

A. "Commercial and institutional net energy billing program" or "program" means the net energy billing program established pursuant to this section. [PL 2019, c. 478, Pt. A, §4 (NEW).]

B. "Commercial or institutional customer" or "customer" means a nonresidential customer of an investor-owned transmission and distribution utility in the State. [PL 2019, c. 478, Pt. A, §4 (NEW).]

C. "Distributed generation resource" has the same meaning as in section 3209-A, subsection 1, paragraph B. [RR 2019, c. 1, Pt. A, §51 (COR).]

D. "Net energy billing" means the system of bill credits available under the program as described in subsection 5. [PL 2019, c. 478, Pt. A, §4 (NEW).]

[PL 2019, c. 478, Pt. A, §4 (NEW); RR 2019, c. 1, Pt. A, §51 (COR).]

**2. Financial interest.** The program must allow a commercial or institutional customer to participate in the program if the customer has a financial interest in a distributed generation resource, including facility ownership, a lease agreement or a power purchase agreement. [PL 2019, c. 478, Pt. A, §4 (NEW).]

**3. System size.** The nameplate capacity of a distributed generation resource that may be used for net energy billing under this section must be less than 5 megawatts. [PL 2019, c. 478, Pt. A, §4 (NEW).]

**4. Shared financial interest; limitation.** Multiple commercial or institutional customers that have distinct billing accounts with an investor-owned transmission and distribution utility may share a financial interest in a distributed generation resource under subsection 2. Any number of commercial or institutional customers may participate in net energy billing with a shared interest in a distributed generation resource, except that the number of customers or meters is limited to 10 for a shared interest in a distributed generation resource located in the service territory of an investor-owned transmission and distribution utility located in an area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine unless the commission determines that the utility's billing system can accommodate more than 10 accounts or meters for the purpose of net energy billing. [PL 2019, c. 478, Pt. A, §4 (NEW).]

**5. Tariff rate; bill credits.** The commission shall establish by rule tariff rates for customers participating in the program. The initial tariff rate must be established no later than December 1, 2019.

A. The tariff rate for a customer participating in net energy billing with a distributed generation resource described in this paragraph must equal the standard-offer service rate 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. The tariff rate under this paragraph applies to net energy billing with a distributed generation resource:

(1) With a nameplate capacity of greater than one megawatt if:

(a) The entity developing the distributed generation resource certifies by affidavit with accompanying documentation to the commission that the entity, before September 1, 2022, commenced on-site physical work of a significant nature on the distributed generation

resource and the entity has made and will continue to make continuous on-site construction efforts to advance toward completion of the distributed generation resource. For the purpose of this paragraph, continuous on-site construction efforts include, but are not limited to, in the context of a solar facility, the continuous installation of racks or other structures to affix photovoltaic panels, collectors or solar cells to a site. The commission may share information contained in the affidavit submitted in accordance with this paragraph with a transmission and distribution utility, as necessary, to verify a distributed generation resource's compliance with this section. In administering this subsection, the commission may adopt rules including, but not limited to, requiring the entity that submits a sworn affidavit under this subparagraph to provide updated documentation to the commission after submission of the affidavit; or

(b) The distributed generation resource is collocated with a net energy billing customer that is or net energy billing customers that are subscribed to at least 50% of the facility's output; or

(2) With a nameplate capacity of one megawatt or less. [PL 2021, c. 659, §19 (AMD).]

A-1. The tariff rate for a customer participating in net energy billing under this section with a distributed generation resource not governed by paragraph A must:

(1) In 2022, equal the standard-offer service rate established pursuant to section 3212 that was applicable to the rate class of the customer receiving the credit on December 31, 2020 plus 75% of the effective transmission and distribution rate that was in effect on December 31, 2020 for the rate class that includes the smallest commercial customers of the investor-owned transmission and distribution utility; and

(2) Increase by 2.25% on January 1st of each subsequent year, beginning January 1, 2023. [PL 2021, c. 659, §19 (NEW).]

B. A customer participating in the program must receive for electricity delivered to the electric grid from a distributed generation resource in which the customer has a financial interest a bill credit based on the tariff rate to apply against the costs of electricity delivered to the customer by the investor-owned transmission and distribution utility. [PL 2019, c. 478, Pt. A, §4 (NEW).]

C. A bill credit under the program as described in paragraph B may be applied to any portion of a customer's electricity bill. Credits that remain unused at the end of any billing period may be carried forward for up to one year from the end of that billing period. [PL 2019, c. 478, Pt. A, §4 (NEW).]

D. A customer participating in the program who remains eligible to participate in the program must be allowed to receive a bill credit based on the tariff rate for a period of no less than 20 years from the date of first receiving the credit. [PL 2019, c. 478, Pt. A, §4 (NEW).]

[PL 2021, c. 659, §19 (AMD).]

**6. Rules.** The commission shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 478, Pt. A, §4 (NEW).]

**7. Applicability.** The applicability of this section is limited by the requirements of section 3209-A, subsection 7 and subsection 9.

[PL 2023, c. 411, §3 (AMD).]

**8. Limitation.** After December 31, 2023, a distributed generation resource may be used for net energy billing under this section only if the distributed generation resource is collocated with all of the distributed generation resource's net energy billing customers and those customers are subscribed to 100% of the facility's output under this section. This limitation does not apply to a distributed generation

resource with a net energy billing agreement that was executed on or before December 31, 2023. An amendment, revision or reissuance of an agreement under this subsection that occurs after December 31, 2023 may not be interpreted to affect the date on which the agreement was initially executed.  
[PL 2023, c. 411, §4 (NEW).]

#### SECTION HISTORY

PL 2019, c. 478, Pt. A, §4 (NEW). RR 2019, c. 1, Pt. A, §51 (COR). PL 2021, c. 390, §2 (AMD). PL 2021, c. 659, §19 (AMD). PL 2023, c. 411, §§3, 4 (AMD).

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