

## Office of Policy and Legal Analysis

Date: March 2, 2021  
To: Joint Standing Committee on Energy Utilities and Technology  
From: Deirdre Schneider, Legislative Analyst  
Re: LD 143, An Act To Make the Arrearage Management Program Permanent

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### Summary

This bill makes the arrearage management program permanent. Currently, the program would be repealed on September 30, 2022.

#### Overview

The law requires investor-owned transmission and distribution utilities to implement an arrearage management program to assist low-income customers in arrears in their electricity bills. The utility is required to work with eligible low-income residential customers to establish an affordable payment plan and provide credit to that customer towards their accumulated arrears, if that customer remains in compliance with the program.

It requires the commission to ensure that a participating transmission and distribution utility recover in rates all reasonable costs of an arrearage management program, but does not allow any arrearage forgiven that is treated as bad debt for the purposes of cost recovery to be included as reasonable costs.

It requires the Efficiency Maine Trust to work with utilities implementing an arrearage management program and other stakeholders to provide access to a complementary low-income energy efficiency program for participants in arrearage management programs in order to help reduce participants' energy consumption.

The law allows a consumer-owned transmission and distribution utility to participate voluntarily.

#### List of People that Submitted Written Testimony and/or Spoke at the Hearing

**Proponents:** Representative Kessler (Sponsor); Barry Hobbins, OPA; Amy Winston, CEI; Megan Hannan, Maine Community Action Partnership; Kathleen Newman, CMP; Lori Parham, AARP; Moriah Geer, ME Equal Justice; Amy Gallant, Good Shepherd Food Bank; and James Cote, Versant Power

**Opponents:** None

**Neither for nor against:** Garrett Corbin, PUC and Michael Stoddard, EMT

#### Amendments Suggested in Testimony

- **Moriah Geer, ME Equal Justice** – In order to expand participation, require that a transmission and distribution utility evaluate a customer's eligibility for participation in AMP before it is allowed to terminate service to a customer.

- **Garrett Corbin, PUC** – Consider removing the January 28, 2022 report that would assess the effectiveness of the program.

### **Notes**

35-A M RSA § 3214(6) requires the PUC to include in its annual report information on low-income assistance programs established or approved under subsection 2(arrearage management program) or 3 and any equitable-treatment program established pursuant to subsection 5. It specifies that the report must, at a minimum, include:

- For each month of the program year, the number of participants enrolled in low-income assistance programs, the number receiving oxygen pump benefits and the number receiving ventilator benefits;
- For each month of the program year, the dollar amount of low-income assistance program benefits, the dollar amount of oxygen pump benefits and the dollar amount of ventilator benefits; and
- An assessment of the effectiveness of the oxygen pump benefit and the ventilator benefit with regard to covering only those electric charges directly related to use of an oxygen pump or ventilator by the program participant.

### **Fiscal Impact**

- A preliminary fiscal income statement has not yet been received.

Reference (proposed repeal language is highlighted below)

35-A MRSA §3214

§3214. Needs-based low-income assistance

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. **Policy.** In order to meet legitimate needs of electricity consumers who are unable to pay their electricity bills in full and who satisfy eligibility criteria for assistance, and recognizing that electricity is a basic necessity to which all residents of the State should have access, it is the policy of the State to ensure adequate provision of financial assistance.

2. **Low-income assistance.** In order to continue existing levels of financial assistance for low-income households and to meet future increases in need caused by economic exigencies, the commission shall:

A. Receive funds collected by all transmission and distribution utilities in the State at a rate set by the commission in periodic rate cases; and

B. Set initial funding for programs based on an assessment of aggregate customer need in periodic rate cases. The funding formula may not result in assistance being counted as income or as a resource in other means-tested assistance programs for low-income households. To the extent possible, assistance must be provided in a manner most likely to prevent the loss of other federal assistance.

**2-A. (TEXT EFFECTIVE UNTIL 9/30/22) (TEXT REPEALED 9/30/22) Arrearage management program.** Each investor-owned transmission and distribution utility shall implement pursuant to this subsection an arrearage management program to assist eligible low-income residential customers who are in arrears on their electricity bills. An arrearage management program implemented pursuant to this subsection is a plan under which a transmission and distribution utility works with an eligible low-income residential customer to establish an affordable payment plan and provide credit to that customer toward the customer's accumulated arrears as long as that customer remains in compliance with the terms of the program. If a consumer-owned transmission and distribution utility elects to implement an arrearage management program, it must do so in accordance with this subsection and rules adopted pursuant to this subsection. The commission shall establish requirements relating to the arrearage management programs by rule. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In adopting rules regarding arrearage management programs, the commission shall:

A. Consider best practices as developed and implemented in other states or regions;

B. Require that an arrearage management program include an electricity usage assessment at no cost to the participant;

C. [PL 2017, c. 414, §1 (RP).]

D. Ensure that a transmission and distribution utility develops terms and conditions for its arrearage management program in a manner that is consistent with the program's objectives and is in the best interests of all ratepayers; and

E. Ensure that a transmission and distribution utility recovers in rates all reasonable costs of arrearage management programs, including:

- (1) Incremental costs;
- (2) Reconnection fees;
- (3) Administrative costs;
- (4) Marketing costs;
- (5) Costs for any 3rd-party assistance it receives in administering its arrearage management program; and
- (6) Costs for providing financial and budgetary guidance to participants whether provided directly or through a 3rd party contracted by the transmission and distribution utility to provide that guidance.

The amount of any arrearage forgiven that is treated as bad debt for purposes of cost recovery by the transmission and distribution utility may not be included as a reasonable cost under this paragraph.

The Efficiency Maine Trust shall work with investor-owned transmission and distribution utilities, consumer-owned transmission and distribution utilities that elect to participate in an arrearage management program and other stakeholders to provide access to a complementary low-income energy efficiency program for participants in arrearage management programs in order to help reduce participants' energy consumption.

No later than January 28, 2022, the commission shall prepare a report assessing the effectiveness of arrearage management programs, including the number of participants enrolled in the programs, the number of participants completing the programs, the number of participants who have failed to complete the programs, the payment patterns of participating customers after completing the programs, the dollar amount of arrears forgiven, a comparison of outcomes for those participating in the programs and those not participating, the impact on any participating transmission and distribution utility's bad debt as a result of the programs, the costs and benefits to all ratepayers associated with the programs and recommendations for ways in which the programs might be improved or continued for the benefit of all ratepayers. In preparing its report, the commission shall hold at least one formal stakeholder meeting involving affected parties, including the Office of the Public Advocate and the participating transmission and distribution utilities. Parties must also be provided an opportunity to submit written comments to the commission regarding the performance of the programs.

The joint standing committee of the Legislature having jurisdiction over utilities matters may report out a bill relating to the commission report to the Second Regular Session of the 130th Legislature.

~~This subsection is repealed September 30, 2022.~~

**3. Special rate.** Nothing in this section may be construed to prohibit a transmission and distribution utility from offering any special rate or program for low-income customers that is not in effect as of the effective date of this chapter, subject to the approval of the commission.

**4. Financial support.** If the Legislature appropriates from the General Fund financial support for households and individuals receiving assistance under this section, the commission may not terminate the assistance provided by transmission and distribution utilities unless the General Fund source has completely replaced such assistance. The commission may adjust the assistance provided pursuant to this section based on the amount of any financial support from the General Fund and may reinstitute assistance subsequent to any termination of assistance if the commission finds that the General Fund source no longer completely replaces such assistance.

**5. Ensuring equitable treatment for persons with certain disabilities.** If the commission establishes or approves one or more low-income assistance programs under subsection 2 or 3 that result in similarly situated persons receiving different levels of assistance depending solely upon which transmission and distribution utility service territory they reside in, the commission shall by rule establish an equitable-treatment program consistent with this subsection.

- A. The equitable-treatment program must be available to any person who:
  - (1) Is eligible for benefits under the transmission and distribution utility's low-income assistance program established in accordance with subsection 2; and
  - (2) Provides documentation from a doctor that the person for health reasons needs an oxygen pump or ventilator at least 8 hours each day.
- B. The equitable-treatment program must be designed to ensure that the low-income assistance benefits provided under this section to persons who qualify under paragraph A mitigate, to an extent that is reasonably equivalent in each transmission and distribution utility territory, electric charges associated with the operation of an oxygen pump or ventilator. The commission may not reduce any assistance provided under any low-income assistance program established under subsection 2 in order to satisfy the requirements of this paragraph.
- C. The commission shall establish an administratively simple and inexpensive method of administering the equitable-treatment program.
- D. Reasonable costs incurred by a transmission and distribution utility in implementing any program established by the commission under this subsection are just and reasonable expenses for rate-making purposes.
- E. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**6. Annual report.** The commission shall include in its annual report pursuant to section 120, subsection 7 a report on low-income assistance programs established or approved under subsection 2 or 3 and any equitable-treatment program established pursuant to subsection 5. The report must, at a minimum, include:

- A. For each month of the program year, the number of participants enrolled in low-income assistance programs, the number receiving oxygen pump benefits and the number receiving ventilator benefits;
- B. For each month of the program year, the dollar amount of low-income assistance program benefits, the dollar amount of oxygen pump benefits and the dollar amount of ventilator benefits; and

C. An assessment of the effectiveness of the oxygen pump benefit and the ventilator benefit with regard to covering only those electric charges directly related to use of an oxygen pump or ventilator by the program participant.

**35-A MRSA §10110(2)(L)**

L. (TEXT EFFECTIVE UNTIL 9/30/22) (TEXT REPEALED 9/30/22) Pursuant to section 3214, subsection 2-A, the trust shall work with investor-owned transmission and distribution utilities, consumer-owned transmission and distribution utilities that elect to participate in an arrearage management program pursuant to section 3214, subsection 2-A and other stakeholders to provide access to a complementary low-income energy efficiency program for participants in the arrearage management programs in order to help reduce participants' energy consumption.

This paragraph is repealed September 30, 2022.