

HOUSE No. 04038

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr. and Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to cost-effective energy policies and electricity cost reduction.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>

<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>Paul Adams</i>	<i>17th Essex</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>

HOUSE No. 04038

By Representative Jones of North Reading and Senator Tarr, a joint petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., Bruce E. Tarr and others relative to cost-effective energy policies and electricity cost reduction. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to cost-effective energy policies and electricity cost reduction.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (b) of section 11F of chapter 25A of the General Laws, as appearing in
2 the 2010 Official Edition, is hereby amended by striking, in line 35, the following words:- and
3 (7)

4 SECTION 2. Subsection (c) of section 11F of chapter 25A of the General Laws, as so appearing,
5 is hereby amended by striking, in line 63, the number “25” and inserting in the place thereof the
6 following number:- 30

7 SECTION 3. Subsection (c) of section 11F of chapter 25A of the General Laws, as so appearing,
8 is hereby amended by striking, in line 65, the number “25” and inserting the place thereof the
9 following number:- 30

10 SECTION 4. Subsection (c) of section 11F of chapter 25A of the General Laws, as so appearing,
11 is hereby amended by inserting after “qualify;” in line 65, the following words:-

12 however, new facilities having a capacity greater than 30 megawatts shall qualify as Class I
13 renewable energy generating sources as prescribed by the department pursuant to subsection (j)

14 SECTION 5. Subsection (c) of section 11F of chapter 25A of the General Laws, as so appearing,
15 is hereby amended by striking, in line 66, the following words:-

16 and (iii) no such facility shall involve pumped storage of water or construction of any new dam
17 or water diversion structure constructed later than January 1, 1998;

18 SECTION 6. Subsection (d) of section 11F of chapter 25A of the General Laws, as so appearing,
19 is hereby amended by striking, in line 94, the following words:- pumped storage of water nor

20 SECTION 7. Section 11F of chapter 25A of the General Laws, as so appearing, is hereby
21 amended by inserting, after subsection (i) the following new subsections:-

22 (j) The department shall adopt regulations allowing for each retail supplier, in satisfying its
23 annual obligations under subsection (a), to provide a portion of the required minimum percentage
24 of kilowatt-hours sales of energy generated by new renewable energy sources from energy
25 generated by new hydroelectric facilities, or incremental new energy from increased capacity or
26 efficiency improvements at existing hydroelectric facilities, having a capacity larger than 30
27 megawatts. The department may specify the maximum portion of the minimum percentage of
28 kilowatt-hour sales from energy generated by new hydroelectric facilities having a capacity
29 larger than 30 megawatts that satisfies a retail supplier's annual obligations under subsection (a);
30 provided, however, that the department shall specify the maximum portion as a percentage of the
31 minimum percentage of kilowatt-hour sales from new renewable energy generating sources that
32 shall encourage the incorporation of hydroelectric generation, from new facilities larger than 30

33 megawatts or existing facilities larger than 30 megawatts that have a new increased capacity, in
34 the commonwealth's renewable energy portfolio.

35 (k) No retail supplier shall be required to make alternative compliance payments pursuant to
36 section 11F until the department has adopted regulations allowing for each retail supplier, in
37 satisfying its annual obligations under subsection (a), to provide a portion of the required
38 minimum percentage of kilowatt-hours sales of energy generated by new renewable energy
39 sources from energy generated by new hydroelectric facilities as prescribed in subsections (b),
40 (c), (d), and (j).

41 SECTION 8. Chapter 21A of the General Laws, as so appearing, is hereby amended by inserting
42 after section 23, the following new section:-

43 Section 24. (a) There shall be within the office an energy policy and electricity cost reduction
44 commission, which shall be an independent public entity not subject to the supervision and
45 control of the office or any other executive office, department, commission, board, bureau,
46 agency or political subdivision of the commonwealth. The commission shall promote public
47 transparency regarding the effectiveness and economic cost of energy and electricity policies and
48 programs implemented in the commonwealth. The commission shall be charged with researching
49 and reviewing the economic and electricity cost implications of current and proposed energy and
50 electricity policies in the commonwealth, as well as the impact these policies have on electricity
51 reliability. The commission shall report to the legislature, as prescribed in this section, with
52 comprehensive recommendations for reforms the commonwealth can implement to: (i)
53 encourage business development and job creation, (ii) reduce the costs associated with energy
54 programs funded, in whole or in part, by the commonwealth, particularly programs established

55 pursuant to chapter 169 of the acts of 2008, (iii) reduce the cost of electricity for commercial,
56 industrial, and residential customers, and (iv) increase electricity reliability.

57 (b) (1) The commission shall consist of 19 persons, as follows: the secretary of energy and
58 environmental affairs and the secretary of housing and economic development, both of whom
59 shall serve as the co-chairs; the attorney general; the inspector general; the commissioner of the
60 department of energy resources or his designee; the chair of the department of public utilities or
61 her designee; 1 person appointed by ISO-New England; 1 person appointed by associated
62 industries of Massachusetts; 1 person appointed by the Massachusetts chapter of the national
63 federation of independent business; 1 person appointed by the Massachusetts clean energy
64 center; 4 persons who are experts in energy efficiency, 1 of whom shall be appointed by the
65 speaker of the house, 1 of whom shall be appointed by the minority leader of the house, 1 of
66 whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the
67 minority leader of the senate; 5 persons appointed by the Governor, 1 of whom shall be a
68 representative from organized labor, 1 of whom shall be a representative of a Massachusetts
69 green business with 10 or fewer employees, 1 of whom shall be a representative of a
70 Massachusetts green business with 10 or more employees, 1 of whom shall be a representative of
71 an institution of higher education and who is also an expert in the structure of the regional
72 wholesale electricity market, and 1 of whom shall be a representative of an institution of higher
73 education and who is also an expert in energy efficiency.

74 (2) Members of the commission shall serve terms of 2 years and until their successors are
75 appointed.

76 (3) Vacancies in the membership of the commission shall be filled by the original appointing
77 authority for the balance of the unexpired term.

78 (4) The chairs of the commission may designate on an annual basis 1 or more commission
79 members as vice-chairs of the commission. The commission shall select any other officers it
80 deems necessary.

81 (5) The members of the commission shall receive no compensation for their services, but shall be
82 reimbursed for any usual and customary expenses incurred in the performance of their duties.

83 (6) The powers of the commission shall include, but not be limited to: (i) using voluntary and
84 uncompensated services of private individuals, agencies and organizations as may from time to
85 time be offered or needed; (ii) recommending policies and making recommendations to agencies
86 and officers of the state and local subdivisions of government to effectuate the changes outlined
87 in section (a); (ii) enacting by-laws for the commission's own governance; and (iv) holding
88 regular public meetings, fact-finding hearings, and other public forums as the commission deems
89 necessary.

90 (7) The commission may request from all state agencies such information and assistance as the
91 commission may require.

92 (c) (1) The commission shall issue an annual report which shall include, at minimum an analysis
93 of the economic cost, electricity cost, and implication for electricity reliability of: (i)
94 implementing administrative, regulatory, and legislative rulemaking as it pertains to electricity
95 and the structure of the wholesale electricity market and (ii) meeting legislative and
96 administrative goals and requirements related to greenhouse gas reductions, energy efficiency,

97 and renewable energy generation, particularly goals established pursuant to Chapter 169 of the
98 Acts of 2008.

99 (2) In so doing, the commission shall at minimum research, evaluate, consider and report on: (i)
100 the accuracy of metrics used to assess the success of ratepayer and taxpayer funded, in whole or
101 in part, programs established pursuant to Chapter 169 of the Acts of 2008, (ii) the accuracy of
102 metrics used to assess the cost effectiveness of ratepayer and taxpayer funded, in whole or in
103 part, programs established pursuant to Chapter 169 of the Acts of 2008 (ii) the cost impact of the
104 mandatory renewable energy charge and the energy efficiency charge, established pursuant to
105 Section 19 and 20 of Chapter 25 of the General Laws, on commercial, industrial, and residential
106 electric service customers, (iii) the effectiveness and necessity of incentives awarded to electric
107 distribution and gas distribution companies pursuant to Chapter 169 of the Acts of 2008, (iv) the
108 economic impact of residential, commercial and industrial construction requirements for green
109 communities, established pursuant to section 10 of chapter 25A, on municipalities that qualify as
110 a green community, (v) the electricity cost implications and associated economic impact of
111 scheduled and projected investments in smart meter technology and transmission infrastructure,
112 (vi) the electricity cost implications and associated economic impact of scheduled increases in
113 demand resources, aggregate net metering capacity, and renewable energy capacity, specifically
114 scheduled and projected installations of wind and solar capacity, (vii) the structure of the
115 regional wholesale electricity market and its impact on retail electricity costs, and (viii) the
116 overall impact of the Commonwealth's energy and electricity policies on economic growth in the
117 Commonwealth, specifically net job creation and business development, establishment, and
118 retention.

119 (d) (1) The commission shall consult with electric distribution companies, natural gas
120 distribution companies, green businesses residing in the Commonwealth, and other interested
121 parties, providing at least one opportunity for public comment, as well as the public review of the
122 commission's annual draft report prior to filing the report with the legislature.

123 (2) The commission shall convene its first meeting within 45 days of the passage of this Act and
124 shall file its first report, along with any recommendations for legislative or regulatory reforms
125 deemed necessary to effectuate the changes outlined in subsection (a), with the clerk of the house
126 and the clerk of the senate, and with the house and senate chairs of the joint committee on
127 telecommunications, utilities and energy, within 180 days of the commission's first meeting. All
128 subsequent annual reports shall be filed by the commission no later than December 31 of each
129 year.

130 (e) Joint committees of the general court and the house and senate committees on ways and
131 means when reporting favorably on bills referred to them that will amend or modify the
132 commonwealth's energy and electricity policies, shall include a review and evaluation conducted
133 by the commission pursuant to this section.

134 (f) (1) Upon request of a joint standing committee of the general court having jurisdiction or the
135 committee on ways and means of either branch, the commission on energy policy and electricity
136 cost reduction shall conduct a review and evaluation of proposed amendments or modifications
137 to the commonwealth's energy and electricity policies, in consultation with relevant state
138 agencies, and shall report back to the joint standing committee or committee on ways and means
139 within 90 days of the request.

140 (2) The commission's review and report on proposed changes shall include a detailed evaluation
141 and explanation of the potential environmental and economic impacts of said changes on
142 residents and businesses in the commonwealth, as well as the impact of said changes on
143 electricity reliability. In so doing, the report shall address, at minimum the impact of proposed
144 changes on: (i) business development and retention in the commonwealth, (ii) net job creation,
145 (iii) the costs associated with energy programs funded, in whole or in part, by the
146 commonwealth, particularly programs established pursuant to chapter 169 of the acts of 2008,
147 (iv) the cost of electricity for commercial, industrial, and residential customers, and (v)
148 electricity reliability.

149 (3) No change in energy or electricity policy shall be implemented until such a review has been
150 undertaken and a report filed with the legislature pursuant to this section.

151 (4) The party or organization on whose behalf the bill was filed shall provide the commission on
152 energy policy and electricity cost containment with any economic cost, electricity cost,
153 electricity reliability, or environmental impact data that they have. All interested parties
154 supporting or opposing the bill shall provide the commission on energy policy and electricity
155 cost containment with any information relevant to the commission's review.

156 SECTION 9. Notwithstanding any general or special law to the contrary the division of energy
157 resources shall, not less than once every five years, complete a review of all renewable energy
158 portfolio standards and issue a report detailing how those standards are impacting economic
159 growth in the Commonwealth, specifically net job creation and business development,
160 establishment, and retention. Said report shall be filed with the clerk of the house and clerk of

161 the senate, and with the house and senate chairs of the joint committee on telecommunications,
162 utilities and energy.

163 SECTION 10. Paragraph 1 of section 83 of chapter 169 of the acts of 2008 is hereby amended by
164 striking out the first sentence and inserting in the place thereof, the following sentence:-

165 Commencing on July 1, 2009, and continuing for a period of 5 years thereafter, each distribution
166 company, as defined in section 1 of chapter 164 of the General Laws, shall be required twice in
167 that 5 year period to competitively solicit proposals from renewable energy developers and,
168 provided at least three reasonable proposals have been received, enter into cost-effective long-
169 term contracts.

170 SECTION 11. Paragraph 2 of section 83 of said chapter is hereby amended by striking out the
171 third sentence and inserting in the place thereof, the following sentence:-

172 The electric distribution company shall select a reasonable method of soliciting proposals from
173 renewable energy developers.

174 SECTION 12. Paragraph 2 of section 83 of said chapter is hereby amended by striking out the
175 fourth sentence and inserting in the place thereof, the following sentence:-

176 The distribution company may consult with the department of energy resources regarding its
177 choice of contracting methods.

178 SECTION 13. Section 83 of chapter 169 of said chapter is hereby amended by striking out the
179 third paragraph and inserting in the place thereof, the following paragraph:-

180 The department of public utilities and the department of energy resources shall each adopt
181 regulations consistent with this section. The regulations shall: (a) allow renewable energy

182 developers to submit proposals for long-term contracts conforming to the contracting methods
183 specified in the second paragraph; (b) require that contracts executed by the distribution
184 company under such proposals are filed with, and approved by, the department of public utilities
185 before they become effective; (c) provide for an annual remuneration for the contracting
186 distribution company up to 4 per cent of the annual payments under the contract to compensate
187 the company for accepting the financial obligation of the long-term contract, such provision to be
188 determined by the department of public utilities at the time of contract approval; and (d) require
189 that the renewable energy generating source to be used by a developer under the proposal meet
190 the following criteria: (1) have a commercial operation date, as verified by the department of
191 energy resources, on or after January 1, 2008; (2) be qualified by the department of energy
192 resources as eligible to participate in the RPS program, under said section 11F of chapter 25A,
193 and to sell RECs under the program; and (3) be determined by the department of public utilities
194 to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to
195 moderating system peak load requirements; and (iii) be cost effective to Massachusetts electric
196 ratepayers over the term of the contract. As part of its approval process, the department of public
197 utilities shall consider the attorney general's recommendations, which shall be submitted to the
198 department of public utilities within 45 days following the filing of such contracts with the
199 department of public utilities. The department of public utilities shall take into consideration
200 both the potential costs and benefits of such contracts, and shall approve a contract only upon a
201 finding that it is a cost effective mechanism for procuring renewable energy on a long-term basis.
202 For the purposes of this section, cost effective shall mean proposals that are likely to result in net
203 ratepayer savings as compared to current and projected future market prices of energy and RECs
204 over the course of the contract period. If, after competitive solicitation, no proposal received by

205 a distribution company is determined to provide such savings, cost effective shall mean
206 proposals that are the least costly in terms of electric service rates.

207 SECTION 14. Paragraph 4 of section 83 of said chapter is hereby amended by striking out, in the
208 first sentence, the following words:- be obligated to

209 SECTION 15. Paragraph 5 of section 83 of said chapter is hereby amended by inserting in the
210 first sentence, after the word “customers,” the following words:- at the contracted price

211 SECTION 16. Paragraph 9 of section 83 of said chapter is hereby repealed.

212 SECTION 17. Sections 10 through 16, inclusive, of this act shall be effective on September 1,
213 2011.

214 SECTION 18. Section 24 of Chapter 21A is hereby repealed.

215 SECTION 19. Section 9 of this act shall be effective on December 31, 2023.

216 SECTION 20. Section 18 of this act shall be effective on December 31, 2023.