

**HOUSE . . . . . No. 00861**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Stephen L. DiNatale*

*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 competitively priced electricity.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>

# HOUSE . . . . . No. 00861

By Mr. Stephen L. DiNatale of Fitchburg, petition (accompanied by bill, House, No. 00861) of Stanley Rosenberg and others for legislation to promote competitively priced electricity. Joint Committee on Telecommunications, Utilities and Energy.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to competitively priced electricity.

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

1 Whereas, the cost of electricity in the Commonwealth is currently near the highest priced in the  
2 United States

3 Whereas the high cost of electricity in the commonwealth is hurting our economy by raising the  
4 cost of doing business, harming our manufacturing, biotech and other industries, while at the  
5 same time raising the cost for municipalities, colleges and universities

6 Whereas, the deferred operation of this act would tend to defeat its purpose, which is to provide  
7 will competitive priced electricity, it is hereby declared to be an emergency law, necessary for  
8 the immediate preservation of the public convenience.

9 SECTION 1. Section 19 of chapter 25 of the General Laws, as amended by section 11 of chapter  
10 169 of the acts of 2008, is hereby amended by inserting after the words “NOx Allowance  
11 Trading Program;” the following:- provided however that all such amounts generated by

12 municipal lighting plants pursuant to the Forward Capacity Market program administered by ISO  
13 New England and all amounts generated by all cap and trade pollution control programs,  
14 including, but not limited to, the carbon dioxide allowance trading mechanism established  
15 pursuant to the Regional Greenhouse Gas Initiative Memorandum of Understanding and the NOx  
16 Allowance Trading Program, shall be returned to said municipal lighting plants

17 SECTION 2. Section 11F of Chapter 25A of the General Laws, as amended by section 32 of  
18 Chapter 169 of the Acts of 2008 is hereby amended by inserting after subsection (i) the following  
19 new subsection:-

20 (j) Commencing January 1, 2009 an electric generation facility or other electric energy source  
21 shall not be eligible as a Class I or Class II renewable energy generating source under this  
22 section 11F if such facility or source is owned or leased by any entity that distributes electricity  
23 to end-use customers or by any affiliate of any such entity and any costs of the entity's or its  
24 affiliate's acquisition, leasing, construction, financing, ownership or operation of the facility or  
25 source are or will be recovered by the entity or its affiliate from end-use customers through its  
26 rates or other cost recovery mechanism determined or allowed by any non-municipal  
27 governmental regulatory authority. The foregoing shall not apply to any renewable energy  
28 generation source for which the department issues a statement of qualification under this section  
29 11F prior to January 1, 2009 or to any facility or source approved for cost recovery under section  
30 1A (f) of Chapter 164

31 SECTION 3. Section 83 of Chapter 169 of the Acts of 2008 is hereby deleted and replaced with  
32 the following:

33 SECTION 83. Commencing on July 1, 2009 , and continuing for a period of 5 years thereafter,  
34 each distribution company, as defined in section 1 of chapter 164 of the General Laws, shall be  
35 required twice in that 5 year period to competitively solicit proposals from renewable energy  
36 developers and, provided reasonable proposals have been received, enter into cost-effective long-  
37 term contracts to increase renewable energy supply for Massachusetts. The timetable and  
38 method for solicitation and execution of such contracts shall be proposed by the distribution  
39 company in consultation with the department of energy resources and shall be subject to review  
40 and approval by the department of public utilities. This long-term contracting obligation shall be  
41 separate and distinct from the electric distribution companies' obligation to meet applicable  
42 annual renewable portfolio standard, hereinafter referred to as RPS, requirements, set forth in  
43 section 11F of chapter 25A of the General Laws.

44 For purposes of this section, a long-term contract is defined as a contract with a term of 10 to 15  
45 years. In developing the provisions of proposed long term contracts, the distribution company  
46 shall consider multiple contracting methods, including long-term contracts for renewable energy  
47 certificates, hereinafter referred to as RECs, for energy, and for a combination of both RECs and  
48 energy. The distribution company may decline to consider contract proposals having terms and  
49 conditions that it determines would require the contract obligation to place an unreasonable  
50 burden on the distribution company's balance sheet. All proposed contracts shall be subject to  
51 the review and approval of the department of public utilities.

52 The department of public utilities and the department of energy resources each shall adopt  
53 regulations consistent with this section. The regulations shall: (a) allow renewable energy  
54 developers to submit proposals for long-term contracts conforming to the contracting methods  
55 specified in the second paragraph; (b) require that contracts executed by the distribution

56 company under such proposals are filed with, and approved by, the department of public utilities  
57 before they become effective; (c) provide for an annual remuneration for the contracting  
58 distribution company up to 4 per cent of the annual payments under the contract to compensate  
59 the company for accepting the financial obligation of the long-term contract, such provision to be  
60 determined by the department of public utilities at the time of contract approval; and (d) require  
61 that the renewable energy generating source to be used by a developer under the proposal meet  
62 the following criteria: (1) have a commercial operation date, as verified by the department of  
63 energy resources, on or after January 1, 2008; (2) be qualified by the department of energy  
64 resources as eligible to participate in the RPS program, under said section 11F of chapter 25A,  
65 and to sell RECs under the program; and (3) be determined by the department of public utilities  
66 to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to  
67 moderating system peak load requirements; (iii) be cost effective to Massachusetts electric  
68 ratepayers over the term of the contract.; Cost effective as used in this section shall refer to  
69 proposal which are likely to result in net ratepayer savings over the course of the contract period.

70 As part of its approval process, the department of public utilities shall consider the attorney  
71 general's recommendations, which shall be submitted to the department of public utilities within  
72 45 days following the filing of such contracts with the department of public utilities. The  
73 department of public utilities shall take into consideration both the potential costs and benefits of  
74 such contracts, and shall approve a contract only upon a finding that it is a cost effective  
75 mechanism for procuring renewable energy on a long-term basis.

76 The distribution company shall not enter into long-term contracts pursuant to this section that  
77 would, in the aggregate, exceed 3 per cent of the total energy demand from all distribution  
78 customers of the distribution company in its service territory.

79 An electric distribution company may elect to use any energy purchased under such contracts for  
80 resale to its customers, and may elect to retain RECs for the purpose of meeting the applicable  
81 annual RPS requirements set forth in said section 11F of said chapter 25A. If the energy and  
82 RECs are not so used, such companies shall sell such purchased energy into the wholesale spot  
83 market and shall sell such purchased RECs through a competitive bid process. Notwithstanding  
84 the foregoing, the department of energy resources shall conduct periodic reviews to determine  
85 the impact on the energy and REC markets of the disposition of energy and RECs hereunder, and  
86 may issue reports recommending legislative changes if it

87 SECTION 4. Section 11F of chapter 25A of the General Laws, as amended by section 32 of  
88 chapter 169 of the acts of 2008, is hereby amended by deleting the terms “located in the  
89 commonwealth” from line 140

90 SECTION 5. Chapter 169 of the acts of 2008, is hereby amended by adding the following  
91 Section after SECTION 124

92 SECTION 125. Electric and Gas distribution companies, as defined in Section 1 of Chapter 164  
93 of the General laws, shall be required on an annual basis to report to the Committee on  
94 Telecommunications and Energy a itemization of the estimated or actual ratepayer cost of any  
95 program required under Chapter 169 of the Acts of 2008, unless said programs are separately  
96 itemized on a ratepayers bill. Said reporting shall be submitted to the Committee on January 31  
97 and cover the actual amounts of the previous year and expected amounts for the current year and  
98 shall be presented as a cost on a volumetric basis whenever possible and by customer class.

99 Further, the Department shall promulgate regulations requiring any entity filing an application  
100 for a general increase in rates pursuant to 220 CMR 5.00 et seq. to provide, upon written request

101 from a nonresidential ratepayer and without cost, the ratepayer's previous 12 billing and usage  
102 statements as if the requested rate had been in effect for that period. Refusal to provide such  
103 information within ten days of receipt of a request shall constitute a violation of 220 CMR 12.00  
104 et seq.

105 SECTION 6. Chapter 164 of the General Laws, as most recently amended, is hereby further  
106 amended by adding at the end of the Section 1F the following:

107 (10) Notwithstanding the provisions of MGL 164 §94 or any other law to the contrary,  
108 whenever the Department makes a determination upon an application for a general increase in  
109 rates pursuant to 220 CMR 5.00 et seq. which results in an increase of 10% or greater above the  
110 rate paid at the time the application was filed, the Department shall allow for not more than a 7  
111 ½% increase in rates for the first calendar year in which the approved rates are to go into effect,  
112 and no more than a 7 ½% increase in any subsequent year necessary to fulfill the approved rate.

113 When a non-residential ratepayer subject to an increase in distribution costs that is 15% or more  
114 than the ratepayer was paying prior to a Department approved rate increase that caused such  
115 increase, the ratepayer may file a petition within 20 days of the Department's issuance of the rate  
116 increase for a phase-in of the ratepayer's distribution cost increase over a period of years. The  
117 Department shall order the phase-in upon a showing of the increased distribution costs of 15% or  
118 more, but the ordered phase-in shall be for not less than two calendar years and for no more than  
119 50 % of the increase in the first calendar year of the phase in period. Such petition shall be acted  
120 upon by the Department within 30 days of its filing or prior to the rate becoming effective,  
121 whichever occurs sooner. Failure to act shall be deemed approval by the Department of the  
122 petition for no more than 50% of the increase in year one and no more than 50% in year two.

123 The Department shall not approve any financing, carrying, or deferral charges or any other costs  
124 charged to rate payers in consideration for the provisions of this section.

125 (11) Notwithstanding the provisions of Massachusetts General Laws Chapter 164, Section 94, or  
126 any other law to the contrary, whenever the Department makes a determination upon an  
127 application for a rate or adjustment of a rate pursuant to 220 CMR 5.00 et seq. or other  
128 applicable Department regulation, that includes the decoupling of revenue from sales, the  
129 Department shall include only the reduced sales demonstrated to be the result of energy  
130 efficiency programs administered by the applicant.

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