

SENATE No. 01679

The Commonwealth of Massachusetts

PRESENTED BY:

Michael R. Knapik

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 electricitiy in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

SENATE No. 01679

By Mr. Knapik, petition (accompanied by bill, Senate, No. 1679) of Tarr, Levy, Dwyer and other members of the General Court for legislation relative to competitively priced electricitiy in the Commonwealth [Joint Committee on Telecommunications, Utilities and Energy].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to competitively priced electricitiy in the Commonwealth.

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. Section 19 of chapter 25 of the General Laws, as amended by section 11
2 of chapter 169 of the acts of 2008, is hereby amended by inserting after the words “NOx
3 Allowance Trading Program;” the following:- provided however that all such amounts generated
4 by municipal lighting plants pursuant to the Forward Capacity Market program administered by
5 ISO New England and all amounts generated by all cap and trade pollution control programs,
6 including, but not limited to, the carbon dioxide allowance trading mechanism established
7 pursuant to the Regional Greenhouse Gas Initiative Memorandum of Understanding and the NOx
8 Allowance Trading Program, shall be returned to said municipal lighting plants

9 SECTION 2. Section 11F of Chapter 25A of the General Laws, as amended by section
10 32 of Chapter 169 of the Acts of 2008 is hereby amended by inserting after subsection (i) the
11 following new subsection:-

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

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

25 SECTION 83. Commencing on July 1, 2009 , and continuing for a period of 5 years
26 thereafter, each distribution company, as defined in section 1 of chapter 164 of the General
27 Laws, shall be required twice in that 5 year period to competitively solicit proposals from
28 renewable energy developers and, provided reasonable proposals have been received, enter into
29 cost-effective long-term contracts to increase renewable energy supply for Massachusetts. The
30 timetable and method for solicitation and execution of such contracts shall be proposed by the
31 distribution company in consultation with the department of energy resources and shall be
32 subject to review and approval by the department of public utilities. This long-term contracting
33 obligation shall be separate and distinct from the electric distribution companies' obligation to

34 meet applicable annual renewable portfolio standard, hereinafter referred to as RPS,
35 requirements, set forth in section 11F of chapter 25A of the General Laws.

36 For purposes of this section, a long-term contract is defined as a contract with a term of
37 10 to 15 years. In developing the provisions of proposed long term contracts, the distribution
38 company shall consider multiple contracting methods, including long-term contracts for
39 renewable energy certificates, hereinafter referred to as RECs, for energy, and for a combination
40 of both RECs and energy. The distribution company may decline to consider contract proposals
41 having terms and conditions that it determines would require the contract obligation to place an
42 unreasonable burden on the distribution company's balance sheet. All proposed contracts shall
43 be subject to the review and approval of the department of public utilities.

44 The department of public utilities and the department of energy resources each shall
45 adopt regulations consistent with this section. The regulations shall: (a) allow renewable energy
46 developers to submit proposals for long-term contracts conforming to the contracting methods
47 specified in the second paragraph; (b) require that contracts executed by the distribution
48 company under such proposals are filed with, and approved by, the department of public utilities
49 before they become effective; (c) provide for an annual remuneration for the contracting
50 distribution company up to 4 per cent of the annual payments under the contract to compensate
51 the company for accepting the financial obligation of the long-term contract, such provision to be
52 determined by the department of public utilities at the time of contract approval; and (d) require
53 that the renewable energy generating source to be used by a developer under the proposal meet
54 the following criteria: (1) have a commercial operation date, as verified by the department of
55 energy resources, on or after January 1, 2008; (2) be qualified by the department of energy
56 resources as eligible to participate in the RPS program, under said section 11F of chapter 25A,

57 and to sell RECs under the program; and (3) be determined by the department of public utilities
58 to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to
59 moderating system peak load requirements; (iii) be cost effective to Massachusetts electric
60 ratepayers over the term of the contract.; Cost effective as used in this section shall refer to
61 proposal which are likely to result in net ratepayer savings over the course of the contract period.

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

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

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

79 SECTION 4. Section 11F of chapter 25A of the General Laws, as amended by section
80 32 of chapter 169 of the acts of 2008, is hereby amended by deleting the terms “located in the
81 commonwealth” from line 140

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

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

91 Further, the Department shall promulgate regulations requiring any entity filing an
92 application for a general increase in rates pursuant to 220 CMR 5.00 et seq. to provide, upon
93 written request from a nonresidential ratepayer and without cost, the ratepayer's previous 12
94 billing and usage statements as if the requested rate had been in effect for that period. Refusal to
95 provide such information within ten days of receipt of a request shall constitute a violation of
96 220 CMR 12.00 et seq.

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

99 (10) Notwithstanding the provisions of MGL 164 §94 or any other law to the contrary,
100 whenever the Department makes a determination upon an application for a general increase in

101 rates pursuant to 220 CMR 5.00 et seq. which results in an increase of 10% or greater above the
102 rate paid at the time the application was filed, the Department shall allow for not more than a 7
103 ½% increase in rates for the first calendar year in which the approved rates are to go into effect,
104 and no more than a 7 ½% increase in any subsequent year necessary to fulfill the approved rate.

105 When a non-residential ratepayer subject to an increase in distribution costs that is
106 15% or more than the ratepayer was paying prior to a Department approved rate increase that
107 caused such increase, the ratepayer may file a petition within 20 days of the Department's
108 issuance of the rate increase for a phase-in of the ratepayer's distribution cost increase over a
109 period of years. The Department shall order the phase-in upon a showing of the increased
110 distribution costs of 15% or more, but the ordered phase-in shall be for not less than two calendar
111 years and for no more than 50 % of the increase in the first calendar year of the phase in period.
112 Such petition shall be acted upon by the Department within 30 days of its filing or prior to the
113 rate becoming effective, whichever occurs sooner. Failure to act shall be deemed approval by the
114 Department of the petition for no more than 50% of the increase in year one and no more than
115 50% in year two.

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

118 (11) Notwithstanding the provisions of Massachusetts General Laws Chapter 164,
119 Section 94, or any other law to the contrary, whenever the Department makes a determination
120 upon an application for a rate or adjustment of a rate pursuant to 220 CMR 5.00 et seq. or other
121 applicable Department regulation, that includes the decoupling of revenue from sales, the

- 122 Department shall include only the reduced sales demonstrated to be the result of energy
- 123 efficiency programs administered by the applicant.