

HOUSE No. 3155

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

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 adoption of the accompanying bill:

An Act modernizing competitive energy supply.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/19/2023</i>

HOUSE No. 3155

By Representative Chan of Quincy, a petition (accompanied by bill, House, No. 3155) of Tackey Chan relative to competitive energy supply. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act modernizing competitive energy supply.

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 1 of chapter 164 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting the following definition:-

3 “energy marketer” any person, firm, partnership, association or private corporation that
4 markets, advertises, or otherwise offers to sell generation service to retail customers that is acting
5 as an agent for a supplier.

6 SECTION 2. Section 1D of chapter 164 of the General Laws, as so appearing, is hereby
7 amended by inserting, before the word “Beginning” in line 1, the following:- (i)

8 SECTION 3. Said section 1D of said chapter 164 of the General Laws, as so appearing, is
9 hereby further amended by adding at the end thereof the following 2 new subsections:-

10 (ii) Distribution companies shall implement accelerated switching such that electric
11 customers to change electric suppliers within 3 business days of receiving the enrollment
12 transaction. Residential and small commercial customers moving within a distribution

13 company's territory shall have their competitive supplier of energy transferred directly to their
14 new service location without being required to switch to an interim rate provided by the
15 distribution company or other supplier.

16 (iii) Not later than 6 months after March 1, 2022, in order to further promote customer
17 choice and convenience in a restructured electricity and gas market, the department shall
18 commence a proceeding to implement enhancements to the distribution companies systems to
19 facilitate the ability for retail electric suppliers to send bills to retail customers pursuant to a
20 single bill format from the retail electric supplier company that shows both energy-related
21 charges and distribution-related charges; provided, however, that all bills shall contain
22 information concerning the quantity of gas or electricity consumed by said customer during the
23 same billing period for the previous year as provided by the distribution company. The
24 department is hereby authorized and directed to determine whether any additional information
25 shall be required to be disclosed on the bills and to promulgate rules and regulations to
26 implement the provisions of this subsection.

27 For retail electric suppliers who have chosen, and been approved by the department, to
28 provide consolidated bills pursuant to this subsection (iii), the retail electric supplier shall make
29 timely payments to distribution companies in accordance with this paragraph. The retail electric
30 supplier shall: (a) bill its customers receiving a single consolidated bill from the supplier for the
31 distribution charges; (b) pay such distribution companies the full amounts due from customers
32 for distribution services in a time period consistent with the average payment period of the
33 participating class of customer, less a percentage of amounts that reflects the average of the
34 uncollectible bills for the participating customer classes of the retail electric company. The

35 department shall conduct a review of the consolidated billing program every three years to adopt
36 rules with respect to the recovery of uncollectable expense.

37 SECTION 4. Section 1F of said chapter 164 of the General Laws, as so appearing, is
38 hereby amended by striking out subparagraph (iii) of paragraph (1), and inserting in place thereof
39 the following 3 subparagraphs:-

40 (iii) All energy brokers, energy marketers, and other suppliers seeking to do business in
41 the commonwealth shall submit a license application to the department, subject to rules and
42 regulations promulgated by the department and subject to a fee, the amount to be determined by
43 the department; provided, said amount shall not be less than \$10,000. Each energy marketer or
44 other supplier that applies for a retail license shall execute and maintain a bond issued by a
45 qualifying surety or insurance company authorized to transact business in the commonwealth of
46 Massachusetts in favor of the commonwealth. The amount of the bond shall equal \$5,000,000
47 per retail license as issued by the department. The bond shall be conditioned upon the full and
48 faithful performance of all duties and obligations of the applicant as a retail supplier and shall be
49 valid for a period of not less than 1 year. The cost of the bond shall be paid by the applicant. The
50 applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part
51 of its application for certification.

52 (iv) Any third-party who contracts with or is otherwise directly engaged and compensated
53 by a supplier to sell electric generation services, or contracts with and is directly compensated by
54 a third-party marketer of the supplier to sell electric generation services on behalf of a supplier,
55 shall be a legal agent of the supplier. No third-party may sell electric generation services on
56 behalf of a supplier unless such third party has received appropriate training directly from such

57 supplier. This subparagraph (iv) shall not apply to third-party Electricity Brokers as defined
58 under 220 CMR 11.02, or consultants or agents acting on behalf of customers that are
59 compensated by the customer as part of the customer's electric contract price.

60 (v) The department shall develop a training and educational program for any entity or
61 individual that is licensed by the department under this section as a competitive supplier. The
62 department shall develop the program in consultation with interested stakeholders, including
63 competitive suppliers. The program shall require that a designated representative of each
64 licensed competitive supplier demonstrate a thorough understanding of the department's
65 regulations regarding sales, consumer protection and any other matter the department deems
66 appropriate though an online training program. At the conclusion of the training, the department
67 shall conduct an online examination and, on a satisfactory score, certify that the designated
68 representative of the licensed competitive supplier has successfully completed the training. The
69 department shall determine the schedule and frequency by which a designated representative of a
70 licensed competitive supplier must complete the training and certification. The department may
71 not issue a license to a new competitive supplier until a designated representative of the new
72 competitive supplier completes the training and certification. The department may adopt
73 regulations that include appropriate penalties for failure to comply with this subparagraph. The
74 department shall use the assessments collected in accordance with paragraph (13) for the initial
75 development of the training and educational program. The department may establish reasonable
76 fees as authorized to fund the training and educational program.

77 SECTION 5. Said section 1F of said chapter 164 of the General Laws, as so appearing, is
78 hereby further amended by adding after subparagraph (ix) of paragraph (8)(a), the following new
79 subparagraph:-

80 (x) Energy brokers, energy marketers, or other suppliers that market and sell to
81 residential customers using in-person or door-to-door marketing practices, must use a third-party
82 verification process as defined in subparagraph (iii), above. Energy brokers, marketers, or other
83 suppliers that market using in-person or door-to-door marketing shall track the phone numbers
84 used for third-party verifications. Third-party verifications used in conjunction with in-person or
85 door-to-door marketing practices are prohibited from using non-fixed voice over internet
86 protocols or phone numbers that cannot otherwise be affiliated with said third-party. Any in-
87 person or door-to-door agent who initiates a sale shall not consummate a sale and shall terminate
88 the interaction if the individual is unable to understand or communicate in the language in which
89 the marketing or solicitation is being conducted.

90 SECTION 6. Subsection (8) of said section 1F of said chapter 164 of the General Laws,
91 as so appearing, is hereby amended by striking in paragraph (b) the words “30 days” and
92 inserting in place thereof the following:- two years.

93 SECTION 7. Said subsection (8) of said section 1F of said chapter 164 is hereby further
94 amended in paragraph (d) by striking out the figure “\$3,000”, and inserting in place thereof the
95 following:- \$5,000.

96 SECTION 8. Said section 1F of said chapter 164 of the General Laws, as amended by
97 section 78 of chapter 8 of the acts of 2021, is hereby further amended by adding at the end
98 thereof the following 3 new paragraphs:-

99 (11) For energy brokers, energy marketers, or other suppliers that market to customers
100 using in-person or door-to-door marketing, each agent representing the broker, marketer, or
101 supplier shall wear an identification badge which is visible at all times during the encounter and

102 accurately identifies: (i) such agent’s first name and unique agent identification number; (ii) the
103 energy broker, energy marketer, or supplier that such agent works for; (iii) the company trade
104 name or D/B/A, if different from the energy broker, energy marketer, or supplier name; (iv) the
105 agent’s photograph; and (v) the customer service phone number of the energy broker, energy
106 marketer, or supplier.

107 (12) For energy brokers, energy marketers, or other suppliers that market to customers
108 using telephone solicitations, each broker, marketer, or supplier agent who initiates a call or who
109 receives an incoming call shall not consummate a sale and shall terminate the interaction if the
110 individual is unable to understand or communicate in the language in which the marketing or
111 solicitation is being conducted.

112 (13) The department shall establish an office of retail market oversight, herein after
113 referred to as the “office”, to be funded by: the fee established in subparagraph (iii) of paragraph
114 (1) and; an annual assessment of retail suppliers and brokers based on a formula to be determined
115 by the department not to exceed \$10,000 annually per licensed entity. The office shall have the
116 power to actively seek input from all interested parties and to develop a thorough understanding
117 and critical analyses of the tools and techniques used to promote retail energy competition in
118 other states. The office shall monitor existing competitive conditions in the commonwealth,
119 identify barriers to retail competition for all customer classes, and actively explore and propose
120 to the department solutions to overcome identified barriers and enhance retail competition. The
121 office shall, in coordination with the office of ratepayer advocacy established in section 11E of
122 chapter 12, publish on a quarterly basis the number of complaints filed against each supplier, and
123 other information deemed relevant by the office. The office shall have the authority to address
124 violations by suppliers through the imposition of a probationary status which may include, but

125 not be limited to, enhanced oversight, additional reporting requirements, and submission for
126 department approval of a plan for any fines or remediation to customers specific to any supplier
127 that violates regulations or any rules subject to this chapter. The office shall report to the
128 department any recommendations for suspension or revocation of a license.

129 SECTION 9. Chapter 164 of the General Laws, as so appearing, is hereby amended by
130 inserting after section 1K the following section:-

131 Section 1L. (a) As used in this section, the following words shall, unless the context
132 otherwise requires, have the following meanings:-

133 “low-income customer,” a retail customer in the commonwealth who is on a residential
134 low-income discount distribution rate as set forth in subsection (4) of section 1F, or participates
135 in a low-income energy assistance program, including, but not limited to, the Low-Income Home
136 Energy Affordability Program or “LIHEAP”.

137 “residential retail customer,” a retail customer in the commonwealth who is on a
138 residential distribution rate.

139 (b) Effective January 1, 2023, no supplier shall execute a new contract or renew an
140 existing contract for generation services with any low-income customer. The department shall
141 establish a competitive procurement process for the supply of retail electric service for low-
142 income customers in each utility service territory. The process shall be a retail auction with
143 oversight by the department. The department shall open a proceeding to establish rules for
144 implementing this section within 90 days of the effective days of this act.

145 (c) As a condition of licensure, or any licensure renewal as of July 1, 2023, under
146 subsection 1 of section 1F of chapter 164, each supplier shall:

147 (1) not extend a supply agreement with a residential retail customer beyond the
148 agreement's stated term without providing at least two notices prior to the end of the supply
149 agreement's stated term;

150 (2) not charge a termination or early cancellation fee of a contract to a residential retail
151 customer; provided, however, this provision shall not apply to charges or fees for devices,
152 equipment, or other non-commodity services;

153 (3) not make a material change in the terms or duration of any individual residential
154 contract for the provision of electric generation services by a supplier without providing two
155 disclosure notices to the customer and the options available to the customer ahead of the
156 proposed change;

157 (4) no less than quarterly, provide to the department: (i) a list detailing each rate the
158 supplier charged to residential retail customers in the last quarter; and (ii) the number of low-
159 income and non-low-income residential retail customers charged each rate included in such list
160 by rate class. The department shall require that suppliers publish at least one publicly available
161 rate from each supplier on the department's website; and

162 (5) no less than annually, provide data to the department concerning any renewable
163 energy certificates retired in connection with the generation service provided to individual
164 residential retail customers. Such data shall include the geographic location and fuel type of
165 each such renewable energy certificate, whether each certificate is RPS Class I eligible, pursuant
166 to section 11F of chapter 25A, and the percentage of the supply purchased from Class I

167 generation in excess of the supplier's annual Class I obligation. The department shall publish
168 this information from each supplier on its website.

169 (d) No license may be transferred without prior approval by the department. No customer
170 may be assigned or transferred without prior notice to the department. Notice of such customer
171 assignment or customer transfer shall be provided to the department at least thirty days prior to
172 the effective date of the assignment or transfer of a customer from one supplier to another
173 supplier. The department may, upon its review of such notice, require certain conditions or deny
174 assignment or transfer of such customer.

175 (e) Any violation of the conditions of licensure enumerated in this section shall be
176 penalized pursuant to subsection (7) of section 1F, at no less than \$10,000 per violation per day.
177 In addition, the attorney general is hereby authorized to bring an action under section 4 of
178 chapter 93A to enforce the consumer protection provisions of this section and to obtain
179 restitution, civil penalties, injunctive relief and any other relief awarded pursuant to said chapter
180 93A. Impersonating an employee of a distribution company or misrepresenting the business
181 relationship between the supplier and the distribution company shall be punishable by a fine of
182 not less than \$10,000 per incident, in addition to any other remedies that may be otherwise
183 applicable under this chapter or chapter 93A.

184 (f) No less than quarterly, the department shall publish each supplier's and electric and
185 gas distribution companies' complaint data, sourced from complaints made to the department as
186 well as those made to the attorney general, as provided to the department annually, on the
187 department's website. Such complaint data shall be and shall include, but not be limited to, the
188 total number of complaints received regarding the supplier and verified by the department or the

189 attorney general, the number of complaints received for misleading or false marketing, the
190 number of complaints for unauthorized switching, the number of complaints for Do Not Call list
191 violations, and the number of complaints for aggressive marketing. Complaints shall be
192 represented as a proportion of customers served.