

HOUSE No. 4745

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act A communication from the Department of Energy Resources of the Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General Laws) submitting proposed regulations (225 CMR 14.00) to provide significant assistance to the Commonwealth in meeting its renewable energy goals.

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

1 . For electrical energy transactions included in the ISO-NE Settlement Market System,
2 the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the
3 Retail Electricity Supplier’s ownership of GIS Certificates representing RPS Class I Renewable
4 Generation and Solar Carve-Out Renewable Generation during the Compliance Year.

5 2. For electrical energy transactions not included in the ISO-NE Settlement Market
6 System, but for which the Retail Electricity Supplier has secured GIS Certificates from the
7 NEPOOL GIS, the Compliance Filings shall include documentation from the NEPOOL GIS of
8 the Retail Electricity Supplier’s ownership of GIS Certificates representing RPS Class I
9 Renewable Generation and Solar Carve-Out Renewable Generation during the Compliance Year.

10 (d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity
11 Product of any quantity of RPS Class I Renewable Generation Attributes banked from one or
12 both of the two previous years pursuant to 225 CMR 14.08(2) that are used to demonstrate

13 compliance with the RPS Class I Minimum Standard in the current Compliance Year, and
14 allocation by Retail Electricity Product of any quantity of Solar Carve-Out Renewable
15 Generation Attributes banked from one or both of the two previous years pursuant to 225 CMR
16 14.08(2) that are used to demonstrate compliance with the Solar Carve-Out Minimum Standard
17 or the RPS Class I Minimum Standard in the current Compliance Year;

18 (e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any
19 Alternative Compliance Credits or Solar Carve-Out Alternative Compliance Credits claimed
20 pursuant to 225 CMR 14.08(3)(a), along with a copy of any Alternative Compliance Payment
21 receipt(s), and allocation by Retail Electricity Product of any Alternative Compliance Credits or
22 Solar Carve-Out Alternative Compliance Credits claimed pursuant to 225 CMR 14.08(3)(b),
23 along with a copy of any Solar Carve-Out Alternative Compliance Payment receipt(s); and

24 (f) Attributes Banked for Future Compliance. Identification of any quantity of
25 Attributes from RPS Class I Renewable Generation or Solar Carve-Out Renewable Generation,
26 that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in
27 subsequent years under the Banked Compliance provisions of 225 CMR 14.08(2).

28 (g) Contracts Subject to Lower ACP Rate under 225 CMR 14.08(3)(b)(3). Identification
29 of any contract for a specific term of years that was executed before January 1, 2010, and its
30 terms, including but not limited to, the execution and expiration dates of the contract and the
31 annual volume of electrical energy supplied. Contracts eligible for the Lower ACP Rate shall
32 include only those contracts that were executed by a retail end-use customer.

33 14.10: Reporting Requirements

34 (1) Certification. Any person required by 225 CMR 14.00 to submit documentation to
35 the Department shall provide:

36 (a) the person's name, title and business address;

37 (b) the person's authority to certify and submit the documentation to the Department;

38 and

39 (c) the following certification: "I hereby certify, under the pains and penalties of
40 perjury, that I have personally examined and am familiar with the information submitted herein
41 and based upon my inquiry of those individuals immediately responsible for obtaining the
42 information, I believe that the information is true, accurate, and complete. I am aware that there
43 are significant penalties, both civil and criminal, for submitting false information, including
44 possible fines and imprisonment."

45 (2) Annual Renewable Energy Resource Report. The Department shall produce and
46 make available to the public an annual report that summarizes information submitted to the
47 Department by Retail Electric Suppliers in the Annual Compliance Filing submitted to the
48 Department pursuant to 225 CMR 14.09(2). Such report shall include non-confidential data that
49 provides the following:

50 the extent to which the Retail Electric Suppliers complied with the RPS Class I Minimum
51 Standard and the Solar Carve-Out Minimum Standard, both separately and combined;

52 the extent to which the Retail Electric Suppliers used Standard Compliance, Banked
53 Compliance, and Alternative Compliance in meeting the Minimum Standards; and

54 the names, locations, and types of RPS Class I Renewable Energy Generation Units and
55 Solar Carve-Out Renewable Energy Units from which the Retail Electric Suppliers, as an
56 aggregate, obtained the Renewable Energy Attributes used in meeting the Minimum Standards.

57 (3) Identification of Renewable Generation Units, RPS Class I and Solar Carve-Out
58 Renewable Generation Units. The Department shall inform the NEPOOL GIS administrator
59 which Generation Units should be designated as Renewable Generation Units, RPS Class I and
60 Solar Carve-Out Renewable Generation Units pursuant to 225 CMR 14.00.

61 14.11: Inspection

62 (1) Document Inspection. The Department may audit the accuracy of all information
63 submitted pursuant to 225 CMR 14.00. The Department may request and obtain from any
64 Owner or Operator of an RPS Class I Renewable Generation Unit, a Solar Carve-Out Renewable
65 Generation Unit, and any Retail Electricity Supplier information that the Department determines
66 necessary to monitor compliance with and enforcement of 225 CMR 14.00.

67 (2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or
68 RPS Class I Renewable Generation Unit Owner or Operator, the Department may conduct
69 audits, which may include inspection and copying of records and/or site visits to an RPS Class I
70 Renewable Generation Unit, Solar Carve-Out Renewable Generation Unit, or a Retail Electricity
71 Supplier's facilities, including, but not limited to, all files and documents that the Department
72 determines are related to compliance with 225 CMR 14.00.

73 14.12: Non-compliance

74 Any Retail Electricity Supplier or Owner or Operator of a RPS Class I Renewable
75 Generation Unit or a Solar Renewable Generation Unit that fails to comply with the requirements
76 of 225 CMR 14.00 shall be subject to the following provisions:

77 (1) Notice of Non-compliance. A failure to comply with the requirements of 225 CMR
78 14.00 shall be determined by the Department. A written Notice of Non-compliance shall be
79 prepared and delivered by the Department to any Retail Electricity Supplier or Owner or
80 Operator of a RPS Class I Renewable Generation Unit or Solar Renewable Generation Unit that
81 fails to comply with the requirements of 225 CMR 14.00. The Notice of Non-compliance shall
82 describe the Requirement(s) with which the Retail Electricity Supplier, Owner, or Operator
83 failed to comply and the time period of such non-compliance.

84 (2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be
85 published on the Department's website and in any other media deemed appropriate by the
86 Department. Such publication may remain posted until the Retail Electricity Supplier or Owner
87 or Operator returns to compliance as determined by the Department.

88 (3) Planning Requirement. A Retail Electricity Supplier that fails to meet the
89 requirements of 225 CMR 14.07 during a Compliance Year shall submit a plan for achieving
90 compliance for the subsequent three years. The plan shall be filed with the Department no later
91 than the first day of September of the Compliance Year subsequent to the Compliance Year for
92 which the Retail Electricity Supplier was out of compliance or such date as the Department may
93 specify.

94 (4) Suspension or Revocation of License. The Department shall refer its findings of
95 non-compliance to the Massachusetts Department of Public Utilities. A Retail Electricity

96 Supplier that fails to comply with 225 CMR 14.00 may be subject to the Massachusetts
97 Department of Public Utilities Licensure Action under 220 CMR 11.07(4)(c)1.

98 14.13: Severability

99 If any provision of 225 CMR 14.00 is declared invalid, such invalidity shall not affect
100 other provisions or applications that can be given effect without the invalid provision or
101 application.

102 REGULATORY AUTHORITY

103 225 CMR 14.00: M.G.L. c. 25A, § 11F.