

SENATE No. 2115

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Text of the amendment (Ways and Means) to the House Bill regarding accountability of public utility companies publicly-assisted affordable housing (House, No. 4126).

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. Chapter 25 of the General Laws is hereby amended by inserting after
2 section 4A the following section:-

3 Section 4B. Upon declaration by the govern or that a state of emergency exists, the
4 governor may authorize the chairman of the department of public utilities to take such action that
5 the chairman may consider necessary to assure public safety and welfare through the priority
6 restoration or continuing availability of gas, electric and water utility services. Under such
7 authority, the chairman may issue operational and management directives and order expenditures
8 or other measures by any investor-owned utility that the chairman considers necessary to respond
9 to the state of emergency, including but not limited to, expenditures for the deployment of
10 personnel, equipment and other assets or property of an alternative utility to assume
11 responsibility for the restoration of service if, in the judgment of the department, the affected
12 utility is incapable of restoring service. The chairman shall have immediate access to all utility
13 records, information and personnel necessary to respond to the state of emergency. The

14 chairman may temporarily suspend any department rule or regulation and implement any
15 emergency rule, procedure or protocol that is necessary to respond to the emergency. Expenses
16 authorized by the chairman under this section may be recognized by the department for all
17 purposes as proper business expenses of the affected utility or alternative utility subject to
18 investigation and recovery through rates. The affected utility shall be required to reimburse the
19 alternative utility for all its costs incurred within 90 days of the receipt of invoices for the cost of
20 service. Willful failure of any investor-owned utility to carry out an order by the chairman
21 authorized under this section shall be subject to investigation and a fine of up to \$1,000,000 per
22 violation. A fine levied by the department shall be returned to ratepayers through distribution
23 rates. Any investor-owned utility aggrieved by an order or directive issued by the chairman
24 under this section may request a hearing within 90 days from the date the state of emergency
25 ends.

26 SECTION 2. Section 1E of chapter 164 of the General Laws, as appearing in the 2008
27 Official Edition, is hereby amended by striking out subsection (c).

28 SECTION 3. Paragraph (7) of section 1F of chapter 164 of the General laws, as so
29 appearing is hereby amended by striking out, in lines 236 through 238 inclusive, the following:- ;
30 provided, however, that the maximum civil penalty shall not exceed \$1,000,000 for any related
31 series of violations.

32 SECTION 4. Chapter 164 of the General Laws is hereby amended by inserting after
33 section 1H the following section:-

34 Section 1I. Each investor-owned electric distribution, transmission, and natural gas
35 distribution company shall file an annual report with the department by March 1 comparing its

36 performance during the previous calendar year to the department's service quality standards and
37 any applicable national standards as the department may adopt. The department shall be
38 authorized to levy a penalty against any distribution, transmission or gas company which fails to
39 meet the service quality standards in an amount up to and including the equivalent of 2.5 per cent
40 of such company's transmission and distribution service revenues for the previous calendar year.

41 SECTION 5. Chapter 164 of the General Laws is hereby amended by inserting after
42 section 85A the following section:-

43 Section 85B. (a) Each electric distribution, transmission and natural gas distribution
44 company conducting business in the commonwealth shall annually, on or before May 15, submit
45 to the department an emergency response plan for review and approval. The emergency
46 response plan shall be designed for the reasonably prompt restoration of service in the case of an
47 emergency event, which is an event where widespread outages have occurred in the service area
48 of the company due to storms or other causes beyond the control of the company. The
49 emergency response plan shall include but not be limited to, the following:

50 (1) the identification of management staff responsible for company operations during an
51 emergency;

52 (2) a communications system with customers during an emergency that extends beyond
53 normal business hours and business conditions;

54 (3) contact with customers who had documented their need for essential electricity for
55 medical needs;

56 (4) designation of staff to communicate with local officials and relevant regulatory
57 agencies;

58 (5) provisions regarding how the company will assure the safety of its employees and
59 contractors;

60 (6) procedures for deploying company and mutual aid crews to work assignment areas;
61 and

62 (7) identification of additional supplies and equipment needed during an emergency and
63 the means of obtaining additional supplies and equipment.

64 The filing with the department shall also include a copy of all written mutual assistance
65 agreements among utilities.

66 (b) After review of an investor-owned electric distribution, transmission, or natural gas
67 distribution company's emergency response plan the department may request that the company
68 amend the plan. The department is authorized to open an investigation of the company's plan. If,
69 after hearings, the department finds a material deficiency in the plan, the department may order
70 the company to make such modifications that it deems reasonably necessary to remedy the
71 deficiency.

72 (c) Any investor-owned electric distribution, transmission or natural gas distribution
73 company failing to file its emergency response plan may be fined \$500 for each day during
74 which such failure continues. The fines levied by the department shall be returned to ratepayers
75 through distribution rates.

76 (d) Notwithstanding any existing power or authority, the department may open an
77 investigation to review the performance of any investor-owned electric distribution,
78 transmission, or natural gas distribution company in restoring service during an emergency
79 event. If, after evidentiary hearings or other investigatory proceedings, the department finds that,
80 as a result of the failure of the company to implement its emergency response plan, the length of
81 the outages were materially longer than they would have been but for the company's failure, the
82 department may deny the recovery of all, or any part of, the service restoration costs through
83 distribution rates, commensurate with the degree and impact of the service outage.