HOUSE DOCKET, NO. 427 FILED ON: 1/14/2011

HOUSE . . . . . No. 861

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 adoption of the accompanying bill:

An Act relative to competitively priced electricity.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Stephen L. DiNatale	*3rd Worcester*	*1/14/2011*
Angelo J. Puppolo, Jr.	*12th Hampden*	*1/18/2011*
Stanley C. Rosenberg	*Hampshire, Franklin and Worcester*	*1/26/2011*
Dennis A. Rosa	*4th Worcester*	*1/27/2011*
Linda Campbell	*15th Essex*	*1/31/2011*
Gale D. Candaras		*2/4/2011*
James J. Dwyer	*30th Middlesex*	*1/31/2011*

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By Mr. DiNatale of Fitchburg, a petition (accompanied by bill, House, No. 861) of Stephen L. DiNatale and others for legislation to promote competitively priced electricity. 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:

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

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

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

SECTION 1. Section 19 of chapter 25 of the General Laws, as amended by section 11 of chapter 169 of the acts of 2008, is hereby amended by inserting after the words “NOx Allowance Trading Program;” the following:- provided however that all such amounts generated by municipal lighting plants pursuant to the Forward Capacity Market program administered by ISO

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

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

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

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

SECTION 83. Commencing on July 1, 2009 , and continuing for a period of 5 years thereafter, each distribution company, as defined in section 1 of chapter 164 of the General

Laws, shall be required twice in that 5 year period to competitively solicit proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost-effective long-term contracts to increase renewable energy supply for Massachusetts. The timetable and method for solicitation and execution of such contracts shall be proposed by the distribution company in consultation with the department of energy resources and shall be subject to review and approval by the department of public utilities. This long-term contracting obligation shall be separate and distinct from the electric distribution companies' obligation to meet applicable annual renewable portfolio standard, hereinafter referred to as RPS, requirements, set forth in section 11F of chapter 25A of the General Laws.

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

The department of public utilities and the department of energy resources each shall adopt regulations consistent with this section. The regulations shall: (a) allow renewable energy developers to submit proposals for long-term contracts conforming to the contracting methods specified in the second paragraph; (b) require that contracts executed by the distribution company under such proposals are filed with, and approved by, the department of public utilities before they become effective; (c) provide for an annual remuneration for the contracting

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

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

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

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

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

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

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

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

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

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

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

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

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

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