

SENATE No. 1679

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 adoption 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>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>	

SENATE No. 1679

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 1679) of Michael R. Knapik, Stephen L. DiNatale, James J. Dwyer, Steven L. Levy and others for legislation relative to competitively priced electricitiy in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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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
2 section 11 of chapter 169 of the acts of 2008, is hereby amended by inserting after the words
3 “NOx Allowance Trading Program;” the following:- provided however that all such amounts
4 generated by municipal lighting plants pursuant to the Forward Capacity Market program
5 administered by ISO New England and all amounts generated by all cap and trade pollution
6 control programs, including, but not limited to, the carbon dioxide allowance trading mechanism
7 established pursuant to the Regional Greenhouse Gas Initiative Memorandum of Understanding
8 and the NOx 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
10 section 32 of Chapter 169 of the Acts of 2008 is hereby amended by inserting after subsection (i)
11 the following new subsection:-

12 (j) Commencing January 1, 2009 an electric generation facility or other electric
13 energy source shall not be eligible as a Class I or Class II renewable energy generating source
14 under this section 11F if such facility or source is owned or leased by any entity that distributes
15 electricity to end-use customers or by any affiliate of any such entity and any costs of the entity's
16 or its affiliate's acquisition, leasing, construction, financing, ownership or operation of the
17 facility or source are or will be recovered by the entity or its affiliate from end-use customers
18 through its 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
24 and replaced with the following:

25 SECTION 83. Commencing on July 1, 2009 , and continuing for a period of 5
26 years 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
37 term of 10 to 15 years. In developing the provisions of proposed long term contracts, the
38 distribution company shall consider multiple contracting methods, including long-term contracts
39 for renewable energy certificates, hereinafter referred to as RECs, for energy, and for a
40 combination of both RECs and energy. The distribution company may decline to consider
41 contract proposals having terms and conditions that it determines would require the contract
42 obligation to place an unreasonable burden on the distribution company's balance sheet. All
43 proposed contracts shall be subject to the review and approval of the department of public
44 utilities.

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

57 resources as eligible to participate in the RPS program, under said section 11F of chapter 25A,
58 and to sell RECs under the program; and (3) be determined by the department of public utilities
59 to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to
60 moderating system peak load requirements; (iii) be cost effective to Massachusetts electric
61 ratepayers over the term of the contract.; Cost effective as used in this section shall refer to
62 proposal which are likely to result in net ratepayer savings over the course of the contract period.

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

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

72 An electric distribution company may elect to use any energy purchased under
73 such contracts for resale to its customers, and may elect to retain RECs for the purpose of
74 meeting the applicable annual RPS requirements set forth in said section 11F of said chapter
75 25A. If the energy and RECs are not so used, such companies shall sell such purchased energy
76 into the wholesale spot market and shall sell such purchased RECs through a competitive bid
77 process. Notwithstanding the foregoing, the department of energy resources shall conduct

78 periodic reviews to determine the impact on the energy and REC markets of the disposition of
79 energy and RECs hereunder, and may issue reports recommending legislative changes if it

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

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

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

93 Further, the Department shall promulgate regulations requiring any entity filing
94 an application for a general increase in rates pursuant to 220 CMR 5.00 et seq. to provide, upon
95 written request from a nonresidential ratepayer and without cost, the ratepayer's previous 12
96 billing and usage statements as if the requested rate had been in effect for that period. Refusal to
97 provide such information within ten days of receipt of a request shall constitute a violation of
98 220 CMR 12.00 et seq.

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

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

108 When a non-residential ratepayer subject to an increase in distribution costs
109 that is 15% or more than the ratepayer was paying prior to a Department approved rate increase
110 that caused such increase, the ratepayer may file a petition within 20 days of the Department's
111 issuance of the rate increase for a phase-in of the ratepayer's distribution cost increase over a
112 period of years. The Department shall order the phase-in upon a showing of the increased
113 distribution costs of 15% or more, but the ordered phase-in shall be for not less than two calendar
114 years and for no more than 50 % of the increase in the first calendar year of the phase in period.
115 Such petition shall be acted upon by the Department within 30 days of its filing or prior to the
116 rate becoming effective, whichever occurs sooner. Failure to act shall be deemed approval by the
117 Department of the petition for no more than 50% of the increase in year one and no more than
118 50% in year two.

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

121 (11) Notwithstanding the provisions of Massachusetts General Laws Chapter
122 164, Section 94, or any other law to the contrary, whenever the Department makes a
123 determination upon an application for a rate or adjustment of a rate pursuant to 220 CMR 5.00 et
124 seq. or other applicable Department regulation, that includes the decoupling of revenue from
125 sales, the Department shall include only the reduced sales demonstrated to be the result of
126 energy efficiency programs administered by the applicant.