

SENATE No. 2395

The Commonwealth of Massachusetts

The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill relative to competitively priced electricity in the Commonwealth (Senate, No. 2214, amended) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4225), reports, a Bill entitled “ An Act relative to competitively priced electricity in the Commonwealth ” (Senate, No. 2395).

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SENATE No. 2395

Senate, July 30, 2012 – The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill relative to competitively priced electricity in the Commonwealth (Senate, No. 2214, amended) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4225), reports, a Bill entitled “An Act relative to competitively priced electricity in the Commonwealth” (Senate, No. 2395).

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to competitively priced electricity 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. Subsection (a) of section 11E of chapter 12 of the General Laws, as
2 appearing in the 2010 Official Edition, is hereby amended by inserting after the words “electric
3 company”, in line 6, the following words:- , water company.

4 SECTION 2. Said subsection (a) of said section 11E of said chapter 12, as so appearing,
5 is hereby further amended by inserting after the word “electric”, in line 20, the following word:- ,
6 water.

7 SECTION 3. Section 3 of chapter 24A of the General Laws, as so appearing, is hereby
8 amended by inserting after the word “electric”, in lines 2 and 5, each time it appears, the
9 following word:- , water.

10 SECTION 4. Section 18 of chapter 25 of the General Laws, as so appearing, is hereby
11 amended by striking out the fourth paragraph.

SECTION 5. Section 19 of said chapter 25, as so appearing, is hereby amended by adding the following subsection:-

(d) There shall be a voluntary accelerated rebate pilot program which shall be made available to the 5 largest commercial or industrial electric users and 5 largest commercial or industrial gas users in each utility service territory. Multiple locations of the same customer shall not be aggregated for purposes of meeting this threshold. Eligible customers electing to participate in the accelerated pilot program shall notify the appropriate electric distribution company, gas company or municipal aggregator, hereafter known as the program administrator, on or before January 31 of each calendar year during the pilot program. Customers electing to participate shall be eligible for financial support of up to 100 per cent of the cost for qualified energy efficiency measures, as determined by the program administrator, using criteria included in the efficiency investment plans established by section 21. Total rebate levels for participating customers in any year of the pilot program shall not exceed 90 per cent of the amount the customer was charged for energy efficiency programs during calendar year 2012. A participating customer shall not aggregate a rebate from any year in which the customer does not participate in the pilot program. Qualified energy efficiency measures shall include cost-effective energy efficiency program measures approved by the applicable program administrator recognized by the department using criteria under said section 21; provided, however, that up to 15 per cent of any accelerated rebate may be used for other improvements that support energy efficiency improvements made under a program approved by the department or emission reductions, including, but not limited to, infrastructure improvements, metering, circuit level technology and software. Customers opting to receive an accelerated rebate shall be ineligible for other energy efficiency program rebates under said section 21 during the period in which they participate in

the pilot program. All qualified installations shall be substantially completed by the end of the program, and shall be subject to verification and review by the department. Electric and gas distribution companies shall recalibrate their energy efficiency goals, as reviewed by the energy efficiency advisory council under subsection (c) of said section 21, to reflect the rebates provided to any customer electing to participate in this pilot program. Nothing in this subsection shall be construed to cause a decrease in the funding of the low-income residential demand-side management and education programs funded under this section.

SECTION 6. Subsection (d) of said section 19 of said chapter 25 is hereby repealed.

SECTION 7. Section 21 of said chapter 25, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 114 and 115 and line 118, the words “Massachusetts Technology Park Corporation” and inserting in place thereof, in each instance, the following words:- Massachusetts clean energy technology center.

SECTION 8. Section 22 of said chapter 25, as so appearing, is hereby amended by striking out, in line 2, the figure “11” and inserting in place thereof the following figure:- 15.

SECTION 9. Said section 22 of said chapter 25, as so appearing, is hereby further amended by striking out, in line 9, the words “and (11) the department of energy resources” and inserting in place thereof the following words:- (11) the Massachusetts Non-profit Network, (12) a city or town in the commonwealth, (13) the Massachusetts association of realtors, (14) a business employing fewer than 10 persons located in the commonwealth that performs energy efficiency services and (15) the department of energy resources.

SECTION 10. Said section 22 of said chapter 25, as so appearing, is further amended by inserting after the word “industry”, in line 19, the following words:- , 1 from ISO New England.

SECTION 11. Said section 22 of said chapter 25, as so appearing, is hereby further amended by adding the following subsection:-

(e) A business employing fewer than 10 persons located in the commonwealth that performs energy efficiency services may only be appointed to the energy efficiency advisory council, under subsection (a), if the business is elected by a majority of businesses performing energy efficiency services in the Mass Save program.

SECTION 12. Section 6 of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out, in line 37, the word “small”.

SECTION 13. Section 11F of said chapter 25A, as so appearing, is hereby amended by striking out, in line 8, the word “new” and inserting in place thereof the following words:- Class I.

SECTION 14. Said section 11F of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 35, the words “clauses (6) and (7)” and inserting in place thereof the following words:- clause (6).

SECTION 15. Subsection (c) of said section 11F of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 63 and 65, the figure “25” and inserting in the place thereof, in each instance, the following figure:- 30.

SECTION 16. Subsection (d) of said section 11F of said chapter 25A, as so appearing, is hereby amended by striking out, in line 93, the figure “5” and inserting in the place thereof, the following figure:- 7.5.

77 SECTION 17. Section 1A of chapter 164 of the General Laws, as so appearing, is hereby
78 amended by adding the following subsection:-

79 (f) Neither this section nor sections 1B to 1H, inclusive, shall preclude an electric
80 company or a distribution company from constructing, owning and operating generation facilities
81 that produce solar energy; provided, however, that such company shall not construct, own or
82 operate more than 25 megawatts of such facilities; provided further, that such generation
83 facilities shall receive department approval for cost recovery prior to June 30, 2014 and are
84 constructed prior to June 30, 2015. Electric companies and distribution companies shall be
85 prohibited from selling, leasing, renting or otherwise transferring all or a portion of a solar
86 generation facility without prior approval by the department. Upon the filing by an electric
87 company or a distribution company of a petition for pre-approval of cost recovery for a solar
88 energy generating facility, the department shall determine whether the proposal is consistent with
89 the commonwealth's energy policy and could be used to satisfy, in part, the renewable energy
90 portfolio standard requirements under section 11F of chapter 25A. The department shall issue an
91 order within 6 months after the date of filing by the electric company or distribution company.
92 The department may adopt such rules and regulations as may be necessary to implement this
93 subsection. Electric and distribution companies shall not sell, lease, rent or otherwise transfer all
94 or a portion of a solar generation facility without prior approval by the department.

95 SECTION 18. Section 94 of said chapter 164, as so appearing, is hereby amended by
96 striking out the first paragraph and inserting in place thereof the following 2 paragraphs:-

97 Electric companies shall file with the department schedules, not less frequently than
98 every 5 years, and gas companies shall file with the department schedules, not less frequently
99 than every 10 years, under a filing schedule as prescribed by the department and in such form as

the department shall prescribe, showing all rates, prices and charges to be charged or collected within the commonwealth for the sale and distribution of gas or electricity, together with all forms of contracts to be used in connection with such schedules; provided, however, that the requirement to file a schedule with the department not less frequently than every 5 or 10 years shall not apply to a company or corporation as defined in section 1 of chapter 165. Rates, prices and charges in such a schedule may be changed by any such company by filing a schedule setting forth the changed rates, prices and charges; provided, however, that until the effective date of any such change no different rate, price or charge shall be charged, received or collected by the company filing such a schedule from those specified in the schedule then in effect; provided, further, that a company may: (i) continue to charge, receive and collect rates, prices and charges under a contract lawfully entered into before the schedule takes effect or until the department otherwise orders, after notice to the company, a public hearing and makes a determination that the public interest so requires; and (ii) sell and distribute gas or electricity under a special contract hereafter made at rates or prices differing from those contained in a schedule in effect; provided, further, that a copy of the contract, in each instance, shall be filed with the department, except that a contract of a company whose sole business in the commonwealth is the supply of electricity in bulk need not file, except as may be required by the department.

If the department receives notice of any changes proposed to be made in any schedule filed under this chapter which represent a general increase in rates, prices and charges for gas or electric service, it shall notify the attorney general immediately and shall hold a public hearing and make an investigation as to the propriety of such proposed changes after first causing notice of the time, place and the subject matter of such hearing to be published at least 21 days before

such hearing in such local newspapers as the department may select. Unless the department otherwise authorizes, the rates, prices and charges under the schedule of a gas or electric company shall not become effective until the first day of the month next after the expiration of 14 days from the filing of the petition; provided, that the department shall not authorize rates filed by an electric company under a proposed settlement agreement more than once in a 10-year period. Unless the department otherwise authorizes, the rates, prices and charges set forth in the schedule of a corporation or company, as defined in said section 1 of said chapter 165, shall not become effective until the first day of the month next after the expiration of 14 days from the filing of the petition. Such rates, prices and charges shall apply to the consumption shown by meter readings made after the effective date of such rates, prices and charges, unless the department otherwise orders. So much of said schedules shall be printed in such form and distributed and published in such manner as the department may require.

SECTION 19. Section 94G½ of said chapter 164 is hereby repealed.

SECTION 20. Said chapter 164 is hereby further amended by inserting after section 94H the following section:-

Section 94I. In each base distribution rate proceeding conducted by the department under section 94, the department shall design base distribution rates using a cost-allocation method that is based on equalized rates of return for each customer class; provided, however, that if the resulting impact of employing this cost-allocation method for any 1 customer class would be more than 10 per cent, the department shall phase in the elimination of any cross subsidies between rate classes on a revenue neutral basis phased in over a reasonable period as determined by the department.

SECTION 21. Said chapter 164 is hereby further amended by striking out section 96, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 96. (a) For purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Control”, the possession of the power, through direct or indirect ownership of a majority of the outstanding voting securities of a gas or electric company or of a holding company thereof, to direct or cause the direction of the management and policies of a gas or electric company or a holding company thereof or the ability to effect a change in the composition of its board of directors or otherwise; provided, however, that control shall not be considered to arise solely from a revocable proxy or consent given to a person in response to a public proxy or consent solicitation made under the applicable rules and regulations of the Securities Exchange Act of 1934 unless a participant in said solicitation has announced an intention to effect a merger or consolidation with, reorganization or other business combination or extraordinary transaction involving such gas or electric company or the holding company.

“Foreign electric company”, an electric company with a domicile, principal place of business, headquarters or place of incorporation outside of the commonwealth, but which may have shared costs with a gas or electric company subject to this chapter that may be allocated by a holding company after an acquisition of control.

“Foreign gas company”, a gas company with a domicile, principal place of business, headquarters or place of incorporation outside of the commonwealth, but which may have shared costs with a gas or electric company subject to this chapter that may be allocated by a holding company after an acquisition of control.

“Holding company”, any corporation, association, partnership, trust or similar organization, or person which, regardless of the locus of the domicile, principal place of business, headquarters or place of incorporation of such entity, either alone or in conjunction and under an arrangement or understanding with 1 or more other corporations, associations, partnerships, trusts or similar organizations, or persons, directly or indirectly, controls, or seeks to acquire control over, and may cause costs to be allocated to a gas or electric company.

“Third party acquirer”, any corporation, association, partnership, trust or similar organization or person that is not under common control with a holding company or companies that are being acquired.

(b) Notwithstanding this chapter or any other general or special law to the contrary, companies, except steam distribution companies, subject to this chapter, or holding companies may consolidate or merge with one another or may sell and convey all or substantially all of their properties to another of such companies. Such companies or holding companies may purchase such properties if: (i) the purchase, sale, consolidation or merger, and the terms thereof, have been approved, at meetings called for the purpose of approving such sale, consolidation or merger, in the case of any contracting company organized under the laws of the commonwealth, by a vote of the holders of at least two-thirds of each class of such company’s stock outstanding and entitled to vote on the question, and, in the case of any contracting company organized in a jurisdiction other than the commonwealth, by a vote of the holders of at least that percentage of such company’s outstanding stock required for approval of the question under the laws of such jurisdiction; and (ii) that the department, after notice and a public hearing, has determined that such purchase and sale, consolidation or merger, and the terms thereof, are consistent with the public interest. In determining whether a purchase and sale, consolidation or merger is consistent

190 with the public interest, the department shall, at a minimum, consider: potential rate changes, if
191 any; the long term strategies that will assure a reliable, cost effective energy delivery system; any
192 anticipated interruptions in service; or other factors which may negatively impact customer
193 service. The purchase or sale of properties by, or the consolidation or merger of, wholesale
194 generation companies shall not require departmental approval except as otherwise provided in
195 this subsection.

196 (c) Notwithstanding this chapter or any other general or special law to the contrary, a gas,
197 electric or holding company, subject to this chapter, shall not enter into any transaction or
198 otherwise take any action which would result in a change of its control over any gas, electric or
199 holding company, or foreign gas or electric company unless: (i) the terms thereof, have been
200 approved, at meetings called therefor, in the case of any contracting company organized under
201 the laws of the commonwealth, by a vote of the holders of at least two-thirds of each class of
202 such company's stock outstanding and entitled to vote on the question, and, in the case of any
203 contracting company organized in a jurisdiction other than the commonwealth, by a vote of the
204 holders of at least that percentage of such company's outstanding stock required for approval of
205 the question under the laws of such jurisdiction; and (ii) the department, after notice and a public
206 hearing, has determined that such transaction or action, and the terms thereof, are consistent with
207 the public interest; provided, however, that in making such a determination the department shall,
208 at a minimum, consider: potential rate changes, if any; the long term strategies that will assure a
209 reliable, cost effective energy delivery system; any anticipated interruptions in service; or other
210 factors which may negatively impact customer service.

211 A holding company may request a waiver of this subsection, on behalf of itself and any
212 foreign electric or gas company directly or indirectly controlled by or under common control

with it, by submission to the department of an affidavit, duly executed by a holding company officer, describing the proposed transaction, accompanied with reasonable explanation and documentation, and certifying facts that substantially support a conclusion that the proposed transaction will have no adverse impacts on any electric or gas company subject to the department's jurisdiction, as applicable, or the ratepayers of any such electric or gas company. The department shall have the discretion to waive compliance with this subsection if the department agrees with the conclusion supported by such officer's affidavit; the department shall issue an order granting or denying such waiver request within 45 days following the holding company's submission of the applicable officer's affidavit.

(d) Corporate reorganizations involving holding companies that will not result in the acquisition, directly or indirectly, of control of an electric or gas company subject to this chapter, or of a holding company thereof, by a third party acquirer shall not be subject to this section.

(e) Nothing in this section shall apply to a wholesale generation company.

SECTION 22. Said chapter 164 is hereby further amended by striking out section 137, as so appearing, and inserting in place thereof the following section:-

Section 137. Notwithstanding any general or special law to the contrary, (i) any non-profit institution in the commonwealth or any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, including the executive, legislative and judicial branches of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, may, unless located within the boundaries of a community served by a municipal light department, participate in and become a member of any competitively procured program organized and administered, under

this chapter, by or on behalf of any public instrumentality of the commonwealth or of any subsidiary organization thereof for the purpose of group purchasing of electricity, natural gas, telecommunications services or similar products; (ii) the disposition of municipal or state real property by lease, easement or license for renewable energy shall not require competitive bidding when part of a power purchase agreement or a net metering agreement in a program organized and administered under this section; (iii) any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, including the executive, legislative and judicial branches of the commonwealth, may, on behalf of the commonwealth, dispose of real property, by lease, easement or license, which is part of a power purchase agreement or net metering agreement in a program organized and administered under this section, including, but not limited to, construction of renewable energy projects on state property; and (iv) any renewable energy project which is part of a power purchase agreement or net metering agreement in a program organized and administered under this section and considered to be public construction shall be subject to sections 26 to 27D, inclusive, of chapter 149.

SECTION 23. Section 138 of said chapter 164, as so appearing, is hereby amended by inserting after the definition of "Agriculture" the following definition:-

"Anaerobic digestion net metering facility", a facility that (1) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions; and (2) has been determined by the department of energy resources, in coordination with the department of environmental protection, to qualify under the department of energy resources regulations as a Class I renewable energy generating source under section 11F of chapter 25A.

258 SECTION 24. Said section 138 of said chapter 164, as so appearing, is hereby further
259 amended by striking out, in line 21, the words “not using solar” and inserting in place thereof the
260 following words:- that is not an agricultural net metering facility or that is not using solar,
261 anaerobic digestion.

262 SECTION 25. Said section 138 of said chapter 164, as so appearing, is hereby further
263 amended by inserting after the word “facility”, in lines 36 and 54, the second time it appears, in
264 each instance, the following words:- ,an anaerobic digestion net metering facility.

265 SECTION 26. Said section 138 of said chapter 164, as so appearing, is hereby further
266 amended by inserting after the word “metering”, in line 60, the first time it appears, the
267 following words:- , anaerobic digestion net metering.

268 SECTION 27. Subsection (f) of section 139 of said chapter 164, as so appearing, is
269 hereby amended by striking out, in line 68, the words “1 per cent” and inserting in place thereof
270 the following words:- 3 per cent.

271 SECTION 28. Said subsection (f) of said section 139 of said chapter 164, as so
272 appearing, is hereby further amended by striking out, in line 70, the words “2 per cent” and
273 inserting in place thereof the following words:- 3 per cent.

274 SECTION 29. Said subsection (f) of said section 139 of said chapter 164, as so
275 appearing, is hereby further amended by inserting after the word “facility”, in line 76, the
276 following words:- or an anaerobic digestion net metering facility.

277 SECTION 30. Said section 139 of said chapter 164, as so appearing, is hereby further
278 amended by adding the following 2 subsections:-

(h) A municipality or other governmental entity that is a member of a cooperative corporation, organized under section 136, that is comprised solely of municipalities or other governmental entities, may transfer any or all of the net metering generating capacity associated with a facility, or facilities, as specified in subsection (f) to said cooperative corporation by providing written assent to the cooperative corporation and obtaining approval from the department. Such a cooperative corporation may serve as a host customer, as defined in 220 CMR 18.02, for net metering facilities of municipalities or other governmental entities for all such allocated capacity and its own allocation of capacity as an other governmental entity; provided, that the net metering credits for which such cooperative serves as host customer shall only be allocated to such cooperative or its members. Such cooperative shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are defined in sections 1 and 1F.

(i) A Class I net metering facility shall be exempt from the aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity under subsection (f), and may net meter if it is generating renewable energy and the nameplate capacity of the facility is (1) equal to or less than 10 kilowatts on a single-phase circuit or (2) 25 kilowatts on a 3-phase circuit.

SECTION 31. Section 6 of chapter 775 of the acts of 1975 is hereby amended by striking out subsection (a), as amended by section 10 of chapter 535 of the acts of 2008, and inserting in place thereof the following subsection:-

(a) The corporation, and member and non-member cities and towns having municipal electric departments established under chapter 164 of the General Laws or by a special act and

other utilities, public or private, may enter into energy contracts including, but not limited to, contracts providing for the sale or purchase of energy or energy facilities, borrowing by members under a pooled loan program, planning, engineering, design, acquiring sites or options for sites and expenses preliminary or incidental to such facilities. Any such contract may: (i) be for the life of a facility or other term or for an indefinite period; (ii) provide for the payment of unconditional obligations imposed without regard to whether a facility is undertaken, completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a facility; and (iii) contain provisions for prepayment, non-unanimous amendment, arbitration, delegation and other matters considered necessary or desirable to carry out its purposes. Any such contract may also provide, in the event of default by any party to the contract in the performance of its obligations under the contract, for other parties to assume the obligations and succeed to the rights and interests of the defaulting party, pro rata or otherwise as may be agreed upon in the contract.

SECTION 32. Section 7 of chapter 465 of the acts of 1980, as most recently amended by chapter 164 of the acts of 1997, is hereby further amended by adding the following 2 subsections:-

(h) If a utility includes, in a manner prescribed by the department, the Massachusetts residential conservation service as part of an efficiency investment plan prepared and submitted to the department under section 21 of chapter 25 of the General Laws, the utility shall have satisfied the requirements of subsection (b).

(i) For any utility that includes the Massachusetts residential conservation service as part of an efficiency investment plan prepared and submitted to the department under said section 21

of said chapter 25, the department shall review the efficiency investment plan under said section 21 of said chapter 25 and shall not review the plan under subsection (f).

SECTION 33. Section 9H of chapter 723 of the acts of 1983 is hereby amended by striking out, in lines 1 and 6, the words “quality engineering”, and inserting in place thereof, in each instance, the following word:- protection.

SECTION 34. Said section 9H of said chapter 723 is hereby further amended by inserting after the word “recreation”, in line 9, the following words:- or renewable energy, notwithstanding any rule or regulation to the contrary, under a permit issued by said department under 310 CMR 19.000.

SECTION 35. Section 83 of chapter 169 of the acts of 2008 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Beginning on July 1, 2009 and continuing until December 31, 2012, each distribution company, as defined in section 1 of chapter 164 of the General Laws, shall be required twice to solicit proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost-effective long-term contracts to facilitate the financing of renewable energy generation. 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, under section 11F of chapter 25A of the General Laws.

SECTION 36. Said chapter 169 is hereby further amended by inserting after section 83 the following section:-

Section 83A. Beginning on January 1, 2013 and continuing until December 31, 2016, all distribution companies in the commonwealth, as defined in section 1 of chapter 164 of the General Laws, shall be required twice in that time period to jointly solicit additional proposals from renewable energy developers and, provided reasonable proposals have been received, enter into additional cost-effective long-term contracts to facilitate the financing of renewable energy generation, apportioned among the distribution companies under this section. The timetable and method for solicitation and execution of such contracts shall be proposed by the distribution companies 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, under section 11F of chapter 25A of the General Laws.

A distribution company may fulfill its responsibilities under this section through individual competitive solicitations that are independent from the 2 joint solicitations for proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost effective long-term contracts to facilitate the financing of renewable energy generation under this section if, upon petition to the department of public utilities prior to the first joint solicitation, the department rules that a solicitation by an individual distribution company would be more cost effective to ratepayers than said distribution company engaging in a joint solicitation.

For purposes of this section, a long-term contract shall be a contract with a term of 10 to 20 years. In developing proposed long-term contracts, the distribution companies 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. Beginning January 1, 2013, the electric companies shall jointly select a reasonable method of soliciting proposals from renewable energy developers using a competitive bidding process only. Distribution companies may use timetables and methods for the solicitation of competitively bid long-term contracts approved by the department of public utilities prior to January 1, 2013. A 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, and may structure its contracts, pricing or administration of the products purchased to mitigate impacts on the balance sheet or income statement of the distribution company or its parent company, subject to the approval of the department of public utilities; provided, that such mitigation shall not increase costs to ratepayers. The distribution companies shall consult with the department of energy resources and the attorney general's office regarding the choice of contracting methods and solicitation methods. 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 companies 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 equal to 2.75 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 acted upon by the department of public utilities at the time of contract approval; (d) to the extent there are significant transmission costs included in a bid, the department of public utilities shall authorize the contracting parties to seek recovery of such transmission costs of the project through federal transmission rates, consistent with policies and tariffs of the federal energy regulatory commission, to the extent the department finds such recovery is in the public interest; and (e) 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, 2013; (2) be qualified by the department of energy resources as eligible to participate in the RPS program, under said section 11F of said 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; and (iv) where feasible, create additional employment and economic development in the commonwealth. 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 consider 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 low cost renewable energy on a long-term basis taking into account the factors outlined in this section.

413 The joint solicitations required under this section shall be coordinated among the electric
414 distribution companies by the department of energy resources. If distribution companies are
415 unable to agree on a winning bid under a solicitation under this section, the matter shall be
416 submitted to the attorney general, in consultation with the department of energy resources and
417 the department of public utilities, for a final, binding determination of the winning bid. The
418 electric distribution companies shall each enter into a contract with the winning bidders for their
419 apportioned share of the market products being purchased from the project. The apportioned
420 share shall be calculated and based upon the total energy demand from all distribution customers
421 in each service territory of the distribution companies.

422 Distribution companies shall not enter into long-term contracts under this section that
423 would, in the aggregate, exceed 4 per cent of the total energy demand from all distribution
424 customers in the service territory of the distribution company. As long as an electric distribution
425 company has entered into long-term contracts in compliance with this section, it shall not be
426 required by regulation or order or by other agreement to enter into additional long-term
427 contracts; provided, however, that an electric distribution company may execute such contracts
428 voluntarily, subject to the approval of the department of public utilities.

429 Ten per cent of the aggregate level of long-term contracts under this section shall be
430 reserved for newly developed, small, emerging or diverse renewable energy distributed
431 generation facilities, as determined by the department of energy resources, which are located
432 within each distribution company's service territory. Notwithstanding this section to the
433 contrary, each distribution company shall be required to solicit proposals for such distributed
434 generation facilities separately through a competitive bidding process only. Distributed
435 generation projects qualifying under this paragraph shall have a nameplate capacity not larger

than 6 megawatts, shall not qualify as a Class I, II or III net metering facility, as defined in section 138 of said chapter 164; provided, however, that long-term contracts reserved for newly developed, small, emerging or diverse renewable energy distributed generation facilities shall not be awarded to any technology which had more than 30 megawatts of capacity installed in the commonwealth before April 1, 2012.

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 to meet the applicable annual RPS requirements under 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 previous sentence, 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 under this section and may issue reports recommending legislative changes if it determines that actions are being taken that will adversely affect the energy and REC markets.

If a distribution company sells the purchased energy into the wholesale spot market and auctions the RECs as described in the fifth paragraph, the distribution company shall net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy and RECs, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of the department of public utilities. The reconciliation process shall be designed so that a distribution company recovers all costs incurred under such contracts. If the RPS requirements of said section 11F of said chapter 25A terminate, the obligation to continue periodic solicitations to enter into long-term contracts shall cease; provided however, that

459 contracts already executed and approved by the department of public utilities shall remain in full
460 force and effect.

461 This section shall not limit consideration of other contracts for RECs or power submitted
462 by a distribution company for review and approval by the department of public utilities.

463 If this section is subject to a judicial challenge, the department of public utilities may
464 suspend the applicability of the challenged provision during the pendency of the judicial action
465 until final resolution of the challenge and any appeals and shall issue such orders and take such
466 other actions as are necessary to ensure that the provisions that are not challenged are
467 implemented expeditiously to achieve the public purposes of this section.

468 SECTION 37. Section 114 of said chapter 169 is hereby amended by striking out, in line
469 3, the figure “2016” and inserting in place thereof the following figure:- 2019.

470 SECTION 38. Clause (2) of subsection (a) of section 116 of said chapter 169 is hereby
471 amended by adding the following words:- , including hydroelectric power, regardless of whether
472 that power is eligible under the renewable energy portfolio standard contained in section 11F of
473 chapter 25A of the General Laws.

474 SECTION 39. The Massachusetts clean energy technology center shall administer a
475 Hydropower Design and Construction Improvement Grant program, in conjunction with the
476 Commonwealth Hydropower Program, to fund upgrades and improvements to existing
477 hydroelectric generation facilities located in the commonwealth that have incrementally
478 increased generating capacity since December 31, 1997, provided that such upgrades and
479 improvements are necessary for the facilities to qualify as a Class I or Class II renewable energy
480 generating source under section 11F of chapter 25A of the General Laws.

481 The Massachusetts clean energy technology center may draw upon and shall make
482 available for the grant program not less than 30 per cent of all Class II alternative compliance
483 payment funds generated under said section 11F of said chapter 25A during the 12 months
484 preceding the solicitation under said grant program.

485 Facilities that apply for the grant program shall be eligible for a grant for each such
486 facility of up to the total amount of Class II alternative compliance payment funds made
487 available to the Massachusetts clean energy technology center under this section; provided,
488 however, that sufficient funds are available for such grants. No grant shall equal more than 50
489 per cent of the total actual cost for the upgrades and improvements necessary for the facilities to
490 qualify as a Class I or Class II renewable energy generating source under said section 11F of said
491 chapter 25A.

492 SECTION 40. In this section the following words shall, unless the context clearly
493 requires otherwise, have the following meanings:-

494 “Department”, the department of public utilities.

495 “NEMA”, the Northeastern Massachusetts /Boston load zone.

496 “RFP”, request for proposals.

497 Within 30 days after the effective date of this act, the department shall open a docket to
498 investigate the need for additional capacity in the NEMA region within the next 10 years. This
499 investigation shall be completed by March 15, 2013. If there is a demonstration that the ISO-
500 New England forward capacity auction immediately preceding March 15, 2013 concluded with
501 total capacity, including excess generating capacity, in such load zone in an amount less than the

capacity expected to be needed to reliably serve the load to such load zone during the next subsequent auction after taking into account any delist or retirement bids that were rejected for reliability reasons, the department shall determine whether there is a need for additional electric generating capacity in the NEMA region. Such a demonstration shall be conclusive proof of the need for additional electric generating capacity in the NEMA load zone. In making its determination, the department shall include consideration of ISO-New England findings and of the anticipated function of the capacity market in New England.

If the department determines there is need for additional electric generating capacity in the NEMA load zone within the next 10 years, under this section, the department may order distribution companies as defined in section 1 of chapter 164 of the General Laws serving such load zone to solicit competitive proposals from developers of electricity generation and provided reasonable proposals have been received, enter into cost-effective long-term contracts to deliver such resources to the NEMA load zone. If required by the department, each distribution company shall administer a competitive solicitation process in the form of an RFP for such capacity that would satisfy the criterion established in subsection (a) of section 21 of chapter 25 of the General Laws. The RFP shall seek a quantity of electric generating capacity sufficient to meet the shortfall identified by the department in the docket initiated under the preceding paragraph. Provided competitive proposals have been received, each distribution company shall enter into long-term contracts with a developer or developers of electricity generation resources sufficient to meet the shortfall; provided, that such contracts shall not be effective unless approved by the department of public utilities.

For purposes of this section, a long-term contract shall be a contract with a term of 10 to 20 years.

Any contracts entered into by the distribution company under this section shall be reviewed by the department. The department shall: (a) require that contracts executed by the distribution company under such proposals are filed with, and approved by, the department before they become effective; (b) require that the energy generating source to be used by a developer under the proposal meet at least the following criteria: (1) have a commercial operation date, as verified by the department of energy resources, on or after June 1, 2014; (2) be determined to fulfill the capacity need in the NEMA load zone identified by the department in the docket authorized in the second paragraph; (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) provide net benefits in terms of the cost of electricity to Massachusetts electric ratepayers over the term of the contract; (iv) demonstrate the mitigation of environmental impacts including, but not limited to, site remediation and reduced greenhouse gas emissions in the commonwealth as well as reduced emissions of criteria pollutants and hazardous air pollutants in the commonwealth; and (v) where feasible, create additional employment and economic development in the commonwealth. In the case of any such contract, the distribution company shall include documentation sufficient to demonstrate how the contract satisfies the criterion established in subsection (a) of section 21 of chapter 25 of the General Laws, specifying the parameters used to make this calculation, including, but not limited to, the forecast energy price and the discount rate. As part of its approval process, the department shall consider the attorney general's recommendations, which shall be submitted to the department within 45 days following the filing of such contracts with the department. Notwithstanding this paragraph,

however, if the department determines that the solicitation process was not competitive, then it shall not approve the contracts.

SECTION 41. (a) There shall be an energy policy review commission established to research and review the economic and environmental benefits, as well as, the economic and electricity cost implications of energy and electricity policies in the commonwealth. The commission shall report to the legislature recommendations on how to: (i) further expand the commonwealth's renewable energy portfolio and promote energy-efficiency; (ii) encourage business development and job creation; (iii) reduce the costs associated with energy programs funded, in whole or in part, by the commonwealth, while maximizing the benefit of these programs; (iv) reduce the cost of electricity for commercial, industrial and residential customers; and (v) increase electricity reliability.

(b) (1) The commission shall consist of 9 members: 1 of whom shall be the secretary of energy and environmental affairs, who shall serve as chair; 1 of whom shall be the attorney general or a designee; 1 of whom shall be a person appointed by the Associated Industries of Massachusetts; 4 of whom shall be persons who are experts in energy efficiency or renewable energy generation, 1 of whom shall be appointed by the speaker of the house of representatives, 1 of whom shall be appointed by the president of the senate, 1 of whom shall be appointed by the minority leader of the house of representatives and 1 of whom shall be appointed by the minority leader of the senate; and 2 of whom shall be appointed by the governor, 1 of whom shall be a representative of a Massachusetts energy efficiency business with 10 or fewer employees, and 1 of whom shall be a representative of an institution of higher education and who is also an expert in the structure of the regional wholesale electricity market. A vacancy in the commission shall be filled in the manner in which the original appointment was made.

(2) The members of the commission shall receive no compensation for their services.

(3) The powers of the commission shall include, but not be limited to: (i) using voluntary and uncompensated services of private individuals, agencies and organizations as may be offered or needed; (ii) recommending policies and making recommendations to agencies and officers of the commonwealth and local subdivisions of government to effectuate the changes outlined in subsection (a); (iii) enacting by-laws for the commission's own governance; and (iv) holding regular public meetings, fact-finding hearings and other public forums as the commission considers necessary.

(4) The commission may request from all state agencies such information and assistance as the commission may require. The commission may also request such information from companies and organizations with state contracts that provide services relative to the scope of the commission.

(5) The commission shall issue a report which shall include, but not be limited to, an analysis of the estimated or actual economic and environmental benefits, as well as, economic cost, electricity cost and implication for electricity reliability of: (i) implementing administrative, regulatory and legislative rulemaking as it pertains to electricity and the structure of the wholesale electricity market; and (ii) meeting legislative and administrative goals and requirements related to greenhouse gas reductions, energy efficiency and renewable energy generation.

(6) The commission shall, at minimum, research, evaluate, consider and report on: (i) determining consistent metrics to be utilized to evaluate the success and cost-effectiveness of programs under chapter 169 of the acts of 2008; (ii) the associated economic and environmental impact of scheduled increases in demand resources, aggregate net metering capacity and

renewable energy capacity; (iii) the structure of the regional wholesale electricity market and its impact on retail electricity costs; and (iv) the overall impact of the commonwealth's energy and electricity policies on economic growth in the commonwealth, specifically net job creation and business development, establishment and retention.

(c) (1) The commission shall consult with electric distribution companies, natural gas distribution companies, green businesses residing in the commonwealth and other interested parties, providing at least 1 opportunity for public comment, as well as, the public review of the commission's draft report prior to filing the report with the general court.

(2) The commission shall convene its first meeting by November 1, 2012 and shall submit its report, along with any recommendations for legislative or regulatory reforms, not later than July 1, 2013 with the clerks of the house of representatives and the senate who shall forward a copy of the report to the house and senate chairs of the joint committee on telecommunications, utilities and energy .

(3) The commission shall reconvene after July 31, 2017, under this section, and shall submit a second report, along with any recommendations for legislative or regulatory reforms, not later than July 1, 2018 with the clerks of the house of representatives and the senate who shall forward a copy of the report to the house and senate chairs of the joint committee on telecommunications, utilities and energy.

SECTION 42. There shall be a plant revitalization task force established to implement a plan, adopt rules and regulations and recommend necessary legislative action to ensure the full deconstruction, remediation and redevelopment or repowering of the Salem Harbor Power Station by December 31, 2016. The task force shall prepare a plan of action for Salem Harbor Station that includes: (i) the full deconstruction of the existing facility, including financing, if

615 necessary, of such deconstruction; (ii) remediation of environmental issues on the site; (iii)
616 maintenance of jobs and preexisting municipal tax revenue associated with the site; (iv) ensuring
617 the responsible parties are held liable for costs of environmental remediation; and (v) additional
618 mitigation efforts necessary for the redevelopment or repowering of the site.

619 In developing and implementing a plan for Salem Harbor Power Station, regulations and
620 proposed legislation, the task force shall, at a minimum, consider the following: (1) options for
621 the full financing of the cleanup of Salem Harbor Power Station, including the creation of
622 decommissioning funds, bonding programs through the Massachusetts Development Finance
623 Agency, long term contracting mechanisms, regulatory or financial incentives for redevelopment
624 or other means to secure such financing; (2) the identification of existing state or federal
625 programs available that may assist in the redevelopment or repowering of the site; and (3) the
626 creation of new programs, grants or other incentives to encourage the redevelopment or
627 repowering of the site.

628 The governor shall establish the task force by September 15, 2012, which shall consist of
629 11 members, including: (1) the secretary of energy and environmental affairs or a designee, who
630 shall serve as chair; (2) the secretary of housing and economic development or a designee; (3)
631 the commissioner of environmental protection or a designee; (4) the attorney general or her
632 designee, in her capacity as the ratepayer advocate for the commonwealth; (5) a representative of
633 Mass Development; (6) a representative of an electric utility; (7) a representative of the New
634 England Power Generators Association; (8) a representative from the International Brotherhood
635 of Electrical Workers; (9) a mayor of a city hosting a coal-fired generating plant; (10) a state
636 representative representing a community with a coal-fired generating plant, appointed by the

speaker of the house of representatives; and (11) a state senator representing a community with a coal-fired generating plant, appointed by the president of the senate.

The task force shall present its plan for Salem Harbor Power Station and suggested rules and regulations to the department of energy resources, the department of public utilities and the joint committee on telecommunications, utilities and energy by June 15, 2013, after which the department of energy resources and the department of public utilities shall promulgate rules and regulations under the plan of action under this section.

The task force shall also identify and develop a plan for other coal-fired generation facilities in the commonwealth that may face closure prior to December 31, 2017 that ensures the deconstruction, remediation and redevelopment or repowering of such sites. The Task Force shall present its analysis of other coal-fired generation facilities in the commonwealth by December 31, 2013.

SECTION 43. The department of energy resources and the attorney general shall jointly study the feasibility, anticipated results, statutory and regulatory barriers and potential benefits of authorizing the commonwealth to procure long-term contracts with Class I renewable energy facilities, as defined in section 11F of chapter 25A of the General Laws, together with long-term contracts for transmission scheduling rights to deliver power generated by such facilities to load zones in the commonwealth. The study shall be based on the best available technical, regulatory and economic analysis. The study shall include a review of central procurement practices in other jurisdictions, including other states or regions, and shall concentrate on such practices in states with restructured electricity markets. The study shall review any studies already performed, and shall take into consideration any studies currently being conducted by state or

659 regional groups with regards to regional procurement, and how the implementation of long-term
660 contract procurement would affect regional efforts in the ISO-New England service area. The
661 study shall identify potential problems and recommend possible solutions to be implemented
662 before the commonwealth may procure such long-term contracts. The department and the
663 attorney general shall publish a report of their findings and recommendations on their respective
664 websites and shall submit a copy of the report not later than September 30, 2013 to the clerks of
665 the house of representatives and the senate who shall forward a copy of the report to the joint
666 committee on telecommunications, utilities and energy.

667 SECTION 44. The department of public utilities shall conduct a study into the financing
668 of low-income electric and gas discount programs. The study shall identify the financing of the
669 existing programs at each electric and gas distribution company and shall include consideration
670 of adopting a statewide mechanism for financing low-income discount programs. In addition, the
671 study shall identify and make recommendations as to cost-saving efficiencies that increase
672 accountability. The department shall submit a copy of the study not later than January 1, 2014 to
673 the clerks of the house of representatives and the senate who shall forward a copy of the study to
674 the joint committee on telecommunications, utilities and energy.

675 SECTION 45. The department of energy resources shall study what legislative or
676 regulatory steps would serve to reduce reliance on alternative compliance payments in meeting
677 Class II renewable energy generating sources, as defined in section 11F of chapter 25A of the
678 General Laws. The department shall submit a copy of the study, together with its
679 recommendations, not later than January 1, 2013 to the clerks of the house of representatives and
680 the senate who shall forward a copy of the study to the joint committee on telecommunications,
681 utilities and energy .

SECTION 46. The executive office of energy and environmental affairs, in consultation with the department of energy resources, shall study whether any alternative energy development, as defined in section 3 of chapter 25A of the General Laws, that generates useful thermal energy shall be added to the list of alternative energy generating sources that may be used to meet the commonwealth's energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth under section 11F½ of said chapter 25A. For purposes of this study, "useful thermal energy", shall mean energy in the form of direct heat, steam, hot water or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed. The executive office of energy and environmental affairs shall submit a report of its findings not later than January 1, 2013 to the clerks of the house of representatives and the senate who shall forward a copy of the report to the joint committee on telecommunications, utilities and energy.

SECTION 47. The department of energy resources shall conduct a study into the process for reactivation of pre-existing hydroelectric power sites, including a review of all necessary permitting and approvals to determine whether and how the process can be expedited and streamlined. The investigation shall include a determination of those permits necessary from federal, state and local agencies for the reactivation of a pre-existing site, and recommendations to streamline the process to allow for timely and cost-effective redevelopment. In the course of the investigation, the department shall convene, to the extent possible, those state and federal agencies responsible for permitting, and any entities that may have obtained, or pursued, permits for the reactivation of pre-existing hydroelectric power sites. The department shall file a report of the findings not later than January 1, 2016 with the clerks of the house of representatives and

the senate who shall forward a copy of the report to the chairs of the joint committee on environment, natural resources and agriculture and the chairs of the joint committee on telecommunications, utilities and energy.

SECTION 48. Section 36 shall not take effect until the department of energy resources has completed a study to assess whether the long-term contracting requirements reasonably support the renewable energy goals of the commonwealth as required under section 83 of chapter 169 of the acts of 2008 and said study has been submitted to the clerks of the house of representatives and the senate and to the chairs of the joint committee on telecommunications, utilities and energy. The study shall include, but not be limited to, input from stakeholders in the energy sector.

SECTION 49. The department of public utilities shall develop an enforceable standard interconnection timeline for the interconnection of distributed generation facilities. Timelines may vary depending on the size and type of the facility or other factors as determined by the department. The department shall implement such timeline not later than November 1, 2013. The department shall enforce established timelines as part of its service quality standards review under section 1I of chapter 164 or by whatever enforcement mechanism is determined appropriate by the department.

SECTION 50. The department of public utilities shall open an investigation relative to increasing the transparency of electric bills sent to retail and commercial customers by electric or gas distribution companies. The department shall consider whether to require a separate “systems benefit” line-item on all electric and gas bills to reflect the rate charged to customers for public policy programs, including, but not limited, to energy efficiency and renewable energy

generation programs. The department shall submit its findings to the joint committee on telecommunications, utilities and energy not later than June 1, 2013.

SECTION 51. Notwithstanding any general or special law to the contrary, on or before January 1, 2013, the department of public utilities shall commence a proceeding for each gas and electric distribution company to identify each reconciliation factor relied upon and to establish a cost-based rate design for costs that are currently recovered from distribution customers through a reconciling factor. The department shall reset reconciliation factors to recover such costs from each rate class under cost-based criteria. In the absence of clear cost causation, volumetric charges shall be employed in a uniform manner in direct proportion to the contribution of base distribution revenues from each class. The department shall approve such redesigned reconciliation factors, after a public hearing comment period, not later than January 1, 2014.

SECTION 52. The department of energy resources, in consultation with the attorney general, shall conduct a study on the continuing challenges associated with the restructuring of the electric industry.

The study shall (1) analyze the effects of market manipulation within the New England electricity marketplace on electricity costs, including distribution, transmission and supply costs, since the restructuring of the electric industry; (2) analyze the effects electric power industry consolidation within the New England electricity marketplace and effects on electricity costs, including distribution, transmission and supply costs, since the restructuring of the electric industry; (3) provide a status of competition in the New England marketplace as it affects the commonwealth and detail the market share trends for generation and competitive supply of electricity since the restructuring of the electricity industry and since the termination of standard offer generation service under section 1B of chapter 164 of the General Laws and 220 CMR

11.00, including an analysis of generation market share trends for: (i) the entire New England marketplace; (ii) the commonwealth; and (iii) each of the 3 load zones within the commonwealth; (4) analyze and provide conclusions regarding the limited residential customer migration rate from basic service to competitive electricity supply including a projection of residential customer migration rates in the future; and (5) analyze the benefits of the integrated resource planning process that electric companies developed under section 69I of the General Laws prior to the restructuring of the electric industry that are not effectively or comprehensively considered within the commonwealth's restructured electric industry, including the accurate analysis and procurement of non-transmission generation alternatives when resources are necessary for electricity reliability.

The department shall make specific legislative and regulatory recommendations to reincorporate state or utility scale integrated resource planning, under this section, and report findings to the joint committee on telecommunications, utilities and energy not later than July 15, 2013.

SECTION 53. Any deed restriction existing on the effective date of this act, that was placed on a landfill closed pursuant to section 9H of chapter 723 of the acts of 1983, may be amended to allow for renewable energy use.

SECTION 54. A customer that elects to participate in the voluntary accelerated rebate pilot program under subsection (d) of section 19 of chapter 25 of the General Laws by January 31, 2013 may aggregate rebates in amounts not to exceed 270 per cent of the amount charged to that customer for energy efficiency programs for calendar year 2012; a customer that elects to participate after January 31, 2013 but before January 31, 2014 may aggregate rebates in amounts

772 not to exceed 180 per cent of the amount charged to that customer for energy efficiency
773 programs for calendar year 2012.

774 SECTION 55. Notwithstanding any general or special law or rule or regulation to the
775 contrary, nothing in this act shall apply to any settlement agreement entered into by an electric or
776 gas distribution company and approved by the department of public utilities prior to the effective
777 date of this act.

778 SECTION 56. Section 39 is hereby repealed.

779 SECTION 57. The pilot program created in section 5 shall begin in calendar year 2013.

780 SECTION 58. Section 6 shall take effect on December 31, 2015.

781 SECTION 59. Section 56 shall take effect on December 31, 2014.