

# SENATE . . . . . No. 2404

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Senate, July 30, 2012 -- Text of the further Senate amendment (Senator Downing) to the Senate Bill relative to the emergency service response of public utility companies (Senate. No. 2143)

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve  
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1           SECTION 1. Chapter 25 of the General Laws, is hereby amended by inserting after  
2 section 12O the following section:-

3           Section 12P. There shall be established and set up on the books of the commonwealth a  
4 separate fund to be known as the Department of Public Utilities Storm Trust Fund. There shall  
5 be credited to this fund all amounts collected under the third paragraph of section 18 and any  
6 income derived from the investment of amounts credited to the fund. All amounts credited to the  
7 fund shall be held in trust and shall be available for expenditure, without further appropriation,  
8 by the department of public utilities for activities of the department in investigating the  
9 preparation for and responses to storm and other emergency events by the electric companies.  
10 Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and  
11 shall be available for expenditure in the following fiscal year.

12           SECTION 2. Section 18 of said chapter 25, as appearing in the 2010 Official Edition, is  
13 hereby amended by inserting after the second paragraph the following paragraph:-

14           For the purpose of providing the department with additional operating funds for  
15 activities of the department in investigating the preparation for and responses to storm and other  
16 emergency events by the electric companies doing business in the commonwealth, the

17 commission may make a separate assessment proportionally against each electric company under  
18 the jurisdictional control of the department, based upon the intrastate operating revenues subject  
19 to the jurisdiction of the department of each of the companies derived from sales within the  
20 commonwealth of electric service, as shown in the annual report of each of the companies to the  
21 department. This assessment shall be made at a rate that shall be determined and certified  
22 annually by the commission as sufficient to produce an annual amount of not less than \$165,000,  
23 plus the costs of fringe benefits and indirect costs as established by the secretary of  
24 administration and finance under section 5D of chapter 29, including group life and health  
25 insurance, retirement benefits, paid vacations, holidays and sick leave. The amount of the  
26 assessment may be increased by the commission annually by a rate not to exceed the most recent  
27 annual consumer price index as calculated for the northeast region for all urban consumers.  
28 Notwithstanding any general or special law to the contrary, no electric company may seek  
29 recovery of any assessments made under this paragraph in any rate proceeding before the  
30 department. Each company shall pay the amount assessed against it within 30 days after the date  
31 of the notice of assessment from the department. Such assessments shall be collected by the  
32 department and credited to the Department of Public Utilities Storm Trust Fund established in  
33 section 12P.

34 SECTION 3. Chapter 164 of the General Laws is hereby amended by inserting after  
35 section 1J the following section:-

36 Section 1K. Any penalty levied by the department against an investor-owned electric  
37 distribution, transmission or natural gas distribution company for any violation of the  
38 department's standards of acceptable performance for emergency preparation and restoration of

39 service for electric and gas distribution companies shall be credited back to the company's  
40 customers in a manner determined by the department.

41 SECTION 4. Section 85B of said chapter 164 is hereby amended by striking out  
42 subsection (a), as appearing in the 2010 Official Edition, and inserting in place thereof the  
43 following subsection:-

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

51 (1) the identification of management staff responsible for company operations during an  
52 emergency, the number of service workers who are available to respond to an emergency within  
53 24 hours and an estimate of the number of crews who are available to respond to an emergency  
54 within 24 hours;

55 (2) a communications system with customers during an emergency that includes  
56 continuous access to staff assistance and 3 times daily updates on estimated return of service  
57 including via telephone, a website in which the 3 times daily updates shall be displayed  
58 prominently for easy public access and 1 other form of appropriate media outreach; provided,  
59 that such updates shall begin upon completion of a damage assessment or after the first 24 hours  
60 of a damage assessment, whichever occurs first;

61 (3) contact with and procedures for prioritizing power restoration to customers who had  
62 documented their need for essential electricity for medical needs including, but not limited to  
63 elderly and physically challenged customers;

64 (4) (i) designation of staff to communicate with designated local emergency  
65 management officials, relevant regulatory agencies and designated community liaisons as  
66 required by subsection (f); and (ii) designation of staff to be posted at the Massachusetts  
67 emergency management agency's emergency operations center, as required by subsection (e);

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

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

71 (7) identification of additional supplies and equipment needed during an emergency and  
72 the means of obtaining additional supplies and equipment; and

73 (8) designation of a call center in the commonwealth for service assistance for the  
74 duration of an emergency or until full service is restored, whichever occurs first. The call center  
75 shall be staffed continuously for the duration of the emergency and to ensure sufficient staffing  
76 levels to handle all customer calls.

77 The filing with the department shall also include a copy of all written mutual assistance  
78 agreements among utilities. The department shall accord protected treatment under section 5D of  
79 chapter 25 of confidential, competitively sensitive or other proprietary information contained in  
80 any emergency response plan and shall also confirm the application of subclause (n) of clause  
81 Twenty-sixth of section 7 of chapter 4 so as not to jeopardize public safety.

82 SECTION 5. Said section 85B of said chapter 164, as so appearing, is hereby further  
83 amended by adding the following 5 subsections:-

84 (e) Each investor-owned electric distribution, transmission or natural gas  
85 distribution company, when implementing an emergency response plan, shall designate an  
86 employee or employees to remain stationed at the Massachusetts emergency management  
87 agency's emergency operations center for the length of the emergency. The employee or  
88 employees shall coordinate communications efforts with designated local emergency  
89 management officials and emergency management officials, as required by this section.

90 (f) Each investor-owned electric distribution, transmission or natural gas distribution  
91 company, when implementing an emergency response plan, shall designate an employee or  
92 employees to serve as community liaisons for each municipality within their service territory. An  
93 investor-owned electric distribution, transmission or natural gas distribution company shall  
94 provide each community liaison with the necessary feeder map or maps outlining municipal  
95 substations and distribution networks and up-to-date customer outage reports at the time of  
96 designation as a community liaison. An investor-owned electric distribution, transmission or  
97 natural gas distribution company shall provide each community liaison with 3 times daily  
98 customer outage report updates for the liaison's respective city or town. The community liaison  
99 shall utilize the maps and outage reports to respond to inquiries from state and local officials and  
100 relevant regulatory agencies.

101 (g) Notwithstanding any general or special law or rule or regulation to the contrary, each  
102 electric distribution, transmission or natural gas distribution company conducting business in the  
103 commonwealth shall provide periodic reports to the department and the Massachusetts

104 emergency management agency regarding emergency conditions and restoration performance  
105 during an emergency event.

106 (h) Each investor-owned electric distribution, transmission or natural gas distribution  
107 company shall file with the emergency management director of each municipality within their  
108 service territory a copy of the emergency response plan and any updates. Failure to file the plan  
109 with each emergency management director shall result in a fine of \$500. The fines levied by the  
110 department shall be returned to ratepayers through distribution rates in a manner determined by  
111 the department.

112 (i) On or before October 1 of each year, every city or town shall notify each investor-  
113 owned electric distribution or natural gas distribution company and the Massachusetts  
114 emergency management agency the name of the emergency management official or designee  
115 responsible for coordinating the emergency response during storm restoration. If a municipality  
116 does not have a designated emergency management official, the chief municipal officer shall  
117 designate 1 public safety official responsible for said emergency response.

118 SECTION 6. An investor-owned electric distribution, transmission or natural gas  
119 distribution company with a call center within 50 miles of their service area, in operation as of  
120 January 1, 2012, shall not be required to designate an additional call center under paragraph (8)  
121 of subsection (a) of section 85B of chapter 164 of the General Laws as long as the call center  
122 continues in operation. If said call center is unable to operate during an emergency event, such  
123 investor-owned electric distribution, transmission or natural gas distribution company shall  
124 utilize a call center within 50 miles of the commonwealth.

125 SECTION 7. Notwithstanding any general or special law to the contrary, any  
126 transmission company, as defined by section 1 of chapter 164 of the General Laws, performing  
127 vegetation maintenance activities within a transmission right-of-way shall make a good faith  
128 effort to notify right-of-way abutters not less than 30 days before any vegetation maintenance  
129 activities in any community where vegetation maintenance activities will occur. Transmission  
130 companies shall also provide said notification to the department of public utilities and the mayor,  
131 city manager or chairman of the board of selectman in the municipality where the right-of-way  
132 lies. The notification shall provide a description of vegetation maintenance activities to be  
133 performed and the locations of such activities. Transmission companies shall be exempt from  
134 the notification requirements of this section in preparation for an imminent emergency event or  
135 during any emergency event.

136 The department of public utilities shall promulgate rules and regulations to carry out this  
137 section.

138 SECTION 8. Notwithstanding any general or special law to the contrary, the first  
139 assessment under the third paragraph of section 18 of chapter 25 of the General Laws shall occur  
140 in fiscal year 2012.”