HOUSE DOCKET, NO. 2367 FILED ON: 1/17/2013

HOUSE . . . . . No. 2935

The Commonwealth of Massachusetts

PRESENTED BY:

Lori A. Ehrlich

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 to transition to a clean energy Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Lori A. Ehrlich	*8th Essex*	*1/17/2013*
Peter V. Kocot	*1st Hampshire*	*1/21/2013*
Jonathan Hecht	*29th Middlesex*	*1/30/2013*
Denise Andrews	*2nd Franklin*	*1/28/2013*
Denise Provost	*27th Middlesex*	*2/1/2013*
Ruth B. Balser	*12th Middlesex*	*1/29/2013*
William N. Brownsberger	*Second Suffolk and Middlesex*	*1/17/2013*
Sean Garballey	*23rd Middlesex*	*2/1/2013*
James B. Eldridge	*Middlesex and Worcester*	*1/31/2013*
Michael D. Brady	*9th Plymouth*	*2/1/2013*
Tom Sannicandro	*7th Middlesex*	*2/1/2013*
John W. Scibak	*2nd Hampshire*	*1/30/2013*
Ellen Story	*3rd Hampshire*	*1/31/2013*
Frank I. Smizik	*15th Norfolk*	*1/17/2013*
Jason M. Lewis	*Fifth Middlesex*	*1/17/2013*
Gailanne M. Cariddi	*1st Berkshire*	*1/17/2013*
David Paul Linsky	*5th Middlesex*	*1/17/2013*
Kenneth I. Gordon	*21st Middlesex*	*1/17/2013*

Anne M. Gobi	*5th Worcester*	*1/17/2013*
Paul McMurtry	*11th Norfolk*	*1/17/2013*
Carlos Henriquez	*5th Suffolk*	*1/17/2013*
Jay R. Kaufman	*15th Middlesex*	*1/17/2013*
Kevin J. Murphy	*18th Middlesex*	*1/17/2013*
Louis L. Kafka	*8th Norfolk*	*1/17/2013*
Kay Khan	*11th Middlesex*	*1/17/2013*
Denise C. Garlick	*13th Norfolk*	*1/17/2013*
Tricia Farley-Bouvier	*3rd Berkshire*	*1/17/2013*
Stephen Kulik	*1st Franklin*	*1/17/2013*
Christopher G. Fallon	*33rd Middlesex*	*1/17/2013*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*	*1/31/2013*
Colleen M. Garry	*36th Middlesex*	*1/17/2013*
Sal N. DiDomenico	*Middlesex and Suffolk*	*1/17/2013*
John J. Binienda	*17th Worcester*	*1/17/2013*
David M. Rogers	*24th Middlesex*	*1/17/2013*
Paul W. Mark	*2nd Berkshire*	*1/17/2013*
Michael J. Barrett	*Third Middlesex*	*1/17/2013*
Alice Hanlon Peisch	*14th Norfolk*	*1/17/2013*
Elizabeth A. Poirier	*14th Bristol*	*1/17/2013*
Sarah K. Peake	*4th Barnstable*	*1/24/2013*
Harold P. Naughton, Jr.	*12th Worcester*	*1/17/2013*
Aaron Vega	*5th Hampden*	*1/17/2013*
Cory Atkins	*14th Middlesex*	*1/17/2013*
Marjorie C. Decker	*25th Middlesex*	*1/17/2013*
Carolyn C. Dykema	*8th Middlesex*	*1/17/2013*
Paul Brodeur	*32nd Middlesex*	*1/17/2013*
Paul J. Donato	*35th Middlesex*	*1/17/2013*
Paul R. Heroux	*2nd Bristol*	*1/17/2013*
Elizabeth A. Malia	*11th Suffolk*	*1/17/2013*
Carl M. Sciortino, Jr.	*34th Middlesex*	*1/17/2013*
Patricia D. Jehlen	*Second Middlesex*	*1/17/2013*
James M. Cantwell	*4th Plymouth*	*1/17/2013*
Aaron Michlewitz	*3rd Suffolk*	*1/17/2013*
Thomas P. Conroy	*13th Middlesex*	*1/17/2013*
Danielle W. Gregoire	*4th Middlesex*	*1/17/2013*

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By Ms. Ehrlich of Marblehead, a petition (accompanied by bill, House, No. 2935) of Lori A. Ehrlich and others relative to the use of coal as an energy resource in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to transition to a clean energy Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: For each electric generating facility located in the commonwealth that uses coal as fuel, the owner and operator shall file a report with the commissioner of the department of energy resources by July 1, 2013 detailing how greenhouse gas emissions emitted by the facility will be reduced consistent with, and at least proportional to, the reductions mandated by chapter 21N of the general laws, including the 2020 statewide greenhouse gas emissions limit adopted by the secretary pursuant to section 4 thereof, and describing how the facility will comply with regulations issued by the United States Environmental Protection Agency regarding the control of Hazardous Air Pollutants under section 112 of the federal Clean Air Act, Standards of Performance for fossil fuel fired steam electric generating units under section 111 of the federal Clean Air Act, the National Ambient Air Quality Standards for ozone, particulate matter, NO2 and SO2, and the Greenhouse Gas Tailoring Rule. The report shall include, but not be limited to, the following:

(i) An assessment of achieving the reductions mandated by chapter 21N of the general laws, including the 2020 statewide greenhouse gas emissions limit adopted by the secretary pursuant to section 4 thereof;

(ii) An assessment of the potential for re-use of the site for alternative uses, including electric generating alternatives that emit few or no greenhouse gas emissions, as well as alternative uses that do not include electric generation; and

(iii) an assessment of the scope and cost of decommissioning, demolishing and remediating the existing facility site for a range of alternative uses which shall include a full site

assessment and risk characterization study. The department of energy resources shall hold public hearings to solicit public comment in response to such reports in each of the regions that have the most significant exposure to air pollutants from coal-fired electric generation facilities.

SECTION 2: On or before January 1, 2014, the commissioner of the department of energy resources shall adopt a plan for replacing all use of coal as an energy resource in the commonwealth by 2020, including a plan for the orderly retirement of all baseload coal-fired electric generating facilities and replacement with clean energy alternatives such as electric transmission upgrades, energy efficiency, demand response and renewable energy alternatives having low or no emissions of greenhouse gases and other regulated air pollutants. The commissioner shall consult with all state agencies and regional authorities with jurisdiction over electric generation, electric transmission, air emissions, public health, economic development and the provision of reliable and affordable electrical service, to ensure the plan can be implemented in an efficient and cost-effective manner while promoting economic development, reducing the public health and climate impacts of electric generation, and increasing energy security for the commonwealth. The plan shall take into account the greenhouse gas emission reductions mandated by chapter 21N of the general laws, including the 2020 statewide greenhouse gas emissions limit adopted by the secretary pursuant to section 4 thereof, as well as regulations issued by the United States Environmental Protection Agency regarding the control of Hazardous Air Pollutants under section 112 of the federal Clean Air Act, Standards of Performance for fossil fuel fired steam electric generating units under section 111 of the federal Clean Air Act, the National Ambient Air Quality Standards for ozone, particulate matter, NO2 and SO2, and the Greenhouse Gas Tailoring Rule. The plan also shall be informed by the reports and related public comments submitted pursuant to section 1 of this act. The plan shall include, but not be limited to, the following:

(i) an analysis of the extent to which each coal-fired electric generating facility can or cannot operate in compliance with existing and reasonably foreseeable state and federal environmental regulations, as well as the feasibility and cost of any modifications necessary to meet the requirements of such regulations;

(ii) an assessment of the potential for re-use of each coal-fired electric generating facility site for alternatives that emit few or no greenhouse gas emissions or other regulated air pollutants, including electric generation and non-generation alternatives;

(iii) an assessment of measures to minimize economic impacts on host communities with respect to each coal-fired electric generating facility that ceases operation on or before January 1, 2020, with such assessment taking into account costs such as any reductions in property tax revenues and benefits such as reduced burdens on emergency and public health services;

(iv) an analysis of whether and to what extent alternatives are needed to ensure electric system reliability, such as increased energy efficiency, demand response, low- or no-emissions renewable energy, electric transmission upgrades and

(v) an assessment of site contamination as well as remediation measures necessary to prepare the host site for alternative uses.

Prior to adopting a final plan, the department of energy resources shall hold public hearings in each of the regions that have the most significant exposure to air pollutants from coal-fired electric generation facilities.

SECTION 3: Chapter 25A of the general laws, as appearing in the 2008 edition, is hereby amended by inserting after section 11I the following sections:

Section 11J. (1) The department shall establish a greenhouse gas emissions performance standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. Beginning January 1, 2015, the greenhouse gas emissions performance standard that must be achieved by each electric generating facility from which retail electricity suppliers purchase electricity for delivery to end-use customers in the commonwealth shall be the lower of (a) nine hundred pounds of greenhouse gases per megawatt hour; or (b) the average greenhouse gas emissions of all electric generating facilities in operation during the prior calendar year in the ISO-New England control area. Such emissions performance standard shall apply to all electricity delivered to end-use customers in the commonwealth on or after January 1, 2015, without regard to when the electricity was purchased or contracted for purchase.

(2) Any electric generation facility having a first commercial operation date after January 1, 2011 and located in the commonwealth must comply with the greenhouse gas emissions performance standard established in subsection (1) of this section from the time of its first commercial operation date and continuing thereafter.

(3) In determining the rate of emissions of greenhouse gases for electric generating facilities under this section, the total emissions associated with producing electricity shall be included.

(4) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration or combined heat and power facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

(5) The department shall adopt regulations to implement and enforce the greenhouse gas emissions performance standard under this section, including regulations establishing procedures for verification of greenhouse gas emissions and rules establishing penalties for any failure to comply with the greenhouse gas emissions performance standard. The department shall revise

the standard downward as necessary to achieve the interim emissions limits established for 2030 and 2040 pursuant to section 3 of chapter 21N of the general laws and the 2050 limit established pursuant to section 3 of chapter 21N of the general laws.

Section 11K. There is hereby established within the department of energy resources and set upon the books of the commonwealth a Community Transitioning Fund for the purpose of mitigating impacts of the retirement of coal-fired electric generation facilities on employees of such facilities and on the municipalities where such facilities are located. There shall be credited to the fund revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and gifts, grants, private contributions, repayment of loans, investment income earned on the fund's assets, and any other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the general fund.

(1) A community transitioning fee shall be established in an amount not less than one dollar for each ton of carbon dioxide emitted by any electric generating facility having a net generating capacity of 75 megawatts or more. The fee shall be remitted to the department of revenue on the last day of each month based on the amount of carbon dioxide emitted during the preceding month.

(2) An owner of an affected electric generating facility shall be liable for the fee until it has been paid to the commonwealth.

(3) All fees collected pursuant to this section shall be deposited in the fund and shall be disbursed for the purposes of mitigating the impacts of the retirement of coal-fired electric generation facilities on employees of such facilities and the municipalities where such facilities are located. The state treasurer shall not deposit or transfer revenues generated pursuant to subsection (1) to the General Fund or any other fund other than the Community Transitioning Fund.

(4) The commissioner shall set the amount of the community transitioning fee, which shall be not less than one dollar for each ton of carbon dioxide emitted by each affected electric generating facility.

The department shall maintain the fund as a separate fund, and shall cause it to be audited by an independent accountant on an annual basis in accordance with accepted accounting principles.

The commissioner shall be treasurer, trustee, and custodian of the fund, and shall administer such fund in accordance with the provisions of this section, and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the department may promulgate.

A governing board of not less than nine individuals with an interest in matters relating to the general purpose of the fund shall assist the department in matters related to the fund and in the implementation of this section. The governing board shall include: the commissioner, who shall serve as chair; the secretary of energy and environmental affairs or a designee; the secretary of labor and workforce development or a designee; the secretary of housing and economic development or a designee; a representative of a labor organization representing electric-generation facilities workers recommended by the president of the Massachusetts AFL-CIO; a representative of the Massachusetts Municipal Association; and three members to be appointed by the governor, who shall have knowledge and experience in one or more of the following areas: regional environmental concerns; renewable energy and energy efficiency; and worker training programs pertaining to renewable energy or energy efficiency.

SECTION 4: Section 2(a) of Chapter 23J of the general laws, as appearing in the 2008 official edition, is hereby amended by striking subsection xi and replacing it with the following –

– (xi) establishing programs to ensure smooth transitions for workers from coal or oil-fired electric power generating facilities to clean energy jobs; and (xii) performing any other actions necessary to effectuate the state's public interests.