

HOUSE No. 4552

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 12, 2020.

The committee on Telecommunications, Utilities and Energy, to whom was referred the petition (accompanied by bill, House, No. 2862) of Thomas A. Golden, Jr., and others relative to enhancing reliability of renewable resources in the Commonwealth, reports recommending that the accompanying bill (House, No. 4552) ought to pass.

For the committee,

THOMAS A. GOLDEN, JR..

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to enhancing reliability of renewable resources in the Commonwealth.

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

1 SECTION 1. Section 83B of chapter 169 of the acts of 2008, as inserted by chapter 188
2 of the acts of 2016, is hereby amended by inserting after the definition of “Distribution
3 company” the following definition:-

4 “Existing energy storage peak renewable power”, the generation moved to higher
5 demand on-peak periods by an energy storage system, as defined in section 1 of chapter 164, that
6 commenced commercial operations or provided incremental new capability at an existing storage
7 system before January 1, 2020; provided, however, that such energy storage system is at least 50
8 megawatts of nameplate capacity and its transportation of energy or stored potential energy from
9 periods of lower demand to periods of higher demand is coordinated with the renewable
10 generation produced in lower demand periods under other solicitations performed under chapter
11 169 of the acts of 2008. While the energy storage system must be located in Massachusetts, the
12 renewable energy generation moved from lower demand periods to higher demand periods may
13 be from resources located anywhere within New England, an adjacent electric system, or federal
14 waters adjacent to New England.

15 SECTION 2. Said section 83B is hereby further amended by inserting after the definition
16 of “New Class I renewable portfolio standard eligible resources” the following definition:-

17 “New energy storage peak renewable power”, the generation moved from lower demand
18 periods to higher demand periods by an energy storage system, as defined in section 1 of chapter
19 164, that commenced commercial operations or provided incremental new capability at an
20 existing storage system on or after January 1, 2020; provided, however, that such transportation
21 of energy or stored potential energy by the energy storage system from periods of lower demand
22 to periods of higher demand is coordinated with the renewable generation produced in lower
23 demand periods under other solicitations performed under chapter 169 of the acts of 2008. While
24 the energy storage system must be located in Massachusetts, the renewable energy generation
25 moved from lower demand periods to higher demand periods may be from resources located
26 anywhere within New England, an adjacent electric system, or federal waters adjacent to New
27 England.

28 SECTION 3. Chapter 169 of the acts of 2008 is hereby amended by inserting after section
29 83D, inserted by chapter 188 of the acts of 2016, the following section:-

30 Section 83E. (a) In order to support the integration of renewable energy resources in and
31 enhance the fuel security of the commonwealth by moving renewable energy to periods of
32 highest electric demand, not later than December 30, 2020, every distribution company shall
33 jointly and competitively solicit proposals for both existing energy storage peak renewable
34 power and new energy storage peak renewable power to transport energy from periods of lower
35 demand to periods of higher demand in coordination with other solicitations performed under
36 chapter 169 of the acts of 2008; and, provided, that reasonable proposals have been received,

37 shall enter into cost-effective 10-15 year contracts. Such 10-15 year contracts executed pursuant
38 to this section shall be subject to the approval of the department of public utilities and shall be
39 apportioned among the distribution companies.

40 (b) The timetable and method for solicitations of 10-15 year contracts shall be proposed
41 jointly by the distribution companies and the department of energy resources using a competitive
42 bidding process, and shall be subject to review and approval by the department of public utilities.
43 The distribution companies, in coordination with the department of energy resources, shall
44 consult with the attorney general regarding the choice of solicitation methods. The distribution
45 companies shall enter into cost-effective 10-15 year contracts for peak renewable power from
46 energy storage resources up to 4,800 gigawatt hours of renewable generation delivered to
47 periods of high demand each year; and provided, further, that up to 2,400 of such gigawatt hours
48 shall be provided by existing energy storage peak renewable power; and provided, further that up
49 to 2,400 of such gigawatt hours shall be provided by new energy storage peak renewable power.
50 The average price of 10-15 year contracts for peak renewable power from existing energy
51 storage peak renewable power shall not exceed the average price of 10-15 year contracts for new
52 energy storage peak renewable power. The quantity of existing energy storage peak renewable
53 power shall be reduced as necessary to enforce this requirement. Proposals received pursuant to
54 a solicitation under this section shall be subject to review by the department of energy resources.
55 If the department of energy resources, in consultation with the distribution companies and the
56 independent evaluator, determines that reasonable proposals were not received pursuant to a
57 solicitation, the department may terminate the solicitation, and may require additional
58 solicitations to fulfill the requirements of this section.

59 (c) If a distribution company deems all proposals to be unreasonable, the distribution
60 company shall, within 20 days of the date of its decision, submit a filing to the department of
61 public utilities. The filing shall include, in the form and detail prescribed by the department of
62 public utilities, documentation supporting the distribution company's decision to decline the
63 proposals. Following a distribution company's filing, and within 4 months of the date of filing,
64 the department of public utilities shall approve or reject the distribution company's decision and
65 may order the distribution company to reconsider any proposal. If distribution companies are
66 unable to agree on a winning bid following a solicitation under this section, the matter shall be
67 submitted to the department of energy resources which shall, in consultation with the
68 independent evaluator, issue a final, binding determination of the winning bid(s); provided, that
69 the final contract executed shall be subject to review by the department of public utilities. The
70 department of energy resources may require additional solicitations to fulfill the requirements of
71 this section.

72 (d) There shall be a selection committee that evaluates bid submissions and selects the
73 winning bid. The committee shall consist of the following members: the secretary of energy and
74 environmental affairs, who shall be the chair; the attorney general; the secretary of housing and
75 economic development; and the house and senate chairs of the joint committee on
76 telecommunications, utilities and energy.

77 (e) The department of public utilities shall promulgate regulations consistent with this
78 section.

79 (f) A proposed 10-15 year contract shall be subject to the review and approval of the
80 department of public utilities. As part of its approval process, the department of public utilities

81 shall consider recommendations by the attorney general, which shall be submitted to the
82 department of public utilities within 45 days following the filing of a proposed 10-15 year
83 contract with the department of public utilities. The department of public utilities shall consider
84 the potential costs and benefits of the proposed 10-15 year contract and shall approve a proposed
85 10-15 year contract if the department finds that the proposed contract is a cost-effective
86 mechanism to move renewable energy from periods of low electric demand to periods of higher
87 electric demand on a long-term basis, taking into account the factors outlined in this section. A
88 distribution company shall be entitled to cost recovery of payments made under a 10-15 year
89 contract approved under this section.

90 (g) The department of energy resources and the attorney general shall jointly select, and
91 the department of energy resources shall contract with, an independent evaluator to monitor and
92 report on the solicitation and bid selection process in order to assist the department of energy
93 resources in determining whether a proposal received pursuant to subsection (b) is reasonable
94 and to assist the department of public utilities in its consideration of 10-15 year contracts filed
95 for approval. To ensure an open, fair and transparent solicitation and bid selection process that is
96 not unduly influenced by an affiliated company, the independent evaluator shall: (1) issue a
97 report to the department of public utilities analyzing the method of solicitation and the
98 solicitation process implemented by the distribution companies and the department of energy
99 resources under subsection (b) and include recommendations, if any, for improving the process;
100 and (2) upon the opening of an investigation by the department of public utilities into a proposed
101 10-15 year contract for a winning bid proposal, file a report with the department of public
102 utilities that summarizes and analyzes the solicitation and the bid selection process, and provide
103 the independent evaluator's assessment of whether all bids were evaluated in a fair and objective

104 manner. The independent evaluator shall have access to the information and data related to the
105 competitive solicitation and bid selection process that is necessary to fulfill the purposes of this
106 subsection; provided, however, that the independent evaluator shall ensure that all proprietary
107 information remains confidential. The department of public utilities shall consider the findings of
108 the independent evaluator and may adopt recommendations made by the independent evaluator
109 as a condition for approval. If the independent evaluator concludes in the findings that the
110 solicitation and bid selection of a 10-15 year contract was not fair and objective and that the
111 process was substantially prejudiced as a result, the department of public utilities shall reject the
112 winning bid proposal.

113 (h) The distribution companies shall each enter into a contract with the winning
114 bidders for their apportioned share of the market products being purchased from the project. The
115 apportioned share shall be calculated and based upon the total energy demand from all
116 distribution customers in each service territory of the distribution companies.

117 (i) The department of energy resources and the department of public utilities may
118 jointly develop requirements for a bond or other security to ensure performance with the
119 requirements of this section.

120 (j) The department of energy resources may promulgate regulations necessary to
121 implement this section.

122 (k) If this section is subjected to a legal challenge, the department of public utilities may
123 suspend the applicability of the challenged provision during the pendency of the action until a
124 final resolution, including any appeals, is obtained and shall issue an order and take other actions

125 as are necessary to ensure that the provisions not subject to the challenge are implemented
126 expeditiously to achieve the public purposes of this section.