

HOUSE No. 3188

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Mahoney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to hydro.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>1/18/2023</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>4/19/2023</i>

HOUSE No. 3188

By Representative Mahoney of Worcester, a petition (accompanied by bill, House, No. 3188) of John J. Mahoney relative to Class I renewable energy generating sources. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3311 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to hydro.

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 11F of Chapter 25A of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out subsections (c) and (d) and inserting in place
3 thereof the following subsections:

4 (c) New and relicensed renewable energy generating sources meeting the requirements of
5 this subsection shall be known as Class I renewable energy generating sources. For the purposes
6 of this subsection, a Class I renewable energy generating source is one that began commercial
7 operation after December 31, 1997, or represents the net increase from incremental new
8 generating capacity after December 31, 1997 at an existing facility, or receives a new license
9 after January 1, 2021 under 18 C.F.R. 16 et seq., where the facility generates electricity using
10 any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3)

11 ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6)
12 energy generated by new and relicensed hydroelectric facilities, or incremental new energy from
13 increased capacity or efficiency improvements at existing hydroelectric facilities; provided,
14 however, that (i) each such new or relicensed facility or increased capacity or efficiency at each
15 such existing facility must meet appropriate and site-specific environmental standards that
16 address adequate and healthy river flows, water quality standards, fish passage and protection
17 measures and mitigation and enhancement opportunities in the impacted watershed as
18 determined by the department in consultation with relevant state and federal agencies having
19 oversight and jurisdiction over hydropower facilities; (ii) in any case in which: (a) pursuant to
20 action initiated with or by the Federal Energy Regulatory Commission, hereinafter referred to as
21 FERC, after January 1, 2000, FERC reviewed and approved an increase of capacity or efficiency
22 at an existing facility, or (b) pursuant to action initiated with or by FERC after January 1, 2009,
23 FERC reviewed and approved a new facility, then such increased capacity or efficiency at each
24 such new or existing facility shall be deemed by the department to have satisfied the
25 environmental standards required by sub-clause (i), and except as limited by sub-clause (iv),
26 shall, upon application, be qualified as a Class I renewable energy generating source, without
27 further review; (iii) all facilities, once qualified, either by meeting the terms of the immediately
28 preceding sub-section (ii) or otherwise shall, remain qualified, so long as they annually certify
29 that they have substantially met the operating conditions placed upon them by FERC; (iii) only
30 energy from new and relicensed facilities having a capacity up to 30 megawatts or attributable to
31 improvements that incrementally increase capacity or efficiency by up to 30 megawatts at an
32 existing hydroelectric facility shall qualify; and (iv) no such facility shall involve pumped
33 storage of water or construction of any new dam or water diversion structure constructed later

34 than January 1, 1998; (7) low emission advanced biomass power conversion technologies using
35 fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops,
36 biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae;
37 (8) marine or hydrokinetic energy as defined in section 3; or (9) geothermal energy. A Class I
38 renewable generating source may be located behind the customer meter within the ISO-NE
39 control area if the output is verified by an independent verification system participating in the
40 NEPOOL GIS accounting system and approved by the department.

41 (d) Every retail electric supplier providing service under contracts executed or extended
42 on or after January 1, 2009, shall provide a minimum percentage of kilowatt-hour sales to end-
43 use customers in the commonwealth from Class II renewable energy generating sources. For the
44 purposes of this section, a Class II renewable energy generating source is one that began
45 commercial operation before December 31, 1997 and generates electricity using any of the
46 following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean
47 thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) energy
48 generated by existing hydroelectric facilities; provided, however, that: (i) such existing facilities
49 shall meet appropriate and site-specific environmental standards that address adequate and
50 healthy river flows, water quality standards, fish passage and protection measures and mitigation
51 and enhancement opportunities in the impacted watershed as determined by the department in
52 consultation with relevant state and federal agencies having oversight and jurisdiction over
53 hydropower facilities; (ii) once the department has, by appropriate means, determined that an
54 existing facility meets the environmental standards required by sub-clause (i), such existing
55 facility shall be qualified as a Class II renewable energy generating source; (iii) any facilities,
56 once so qualified shall remain qualified so long as they annually certify, to the satisfaction of the

57 department, that they have substantially met the operating conditions placed upon them by
58 FERC; and (iv) only energy from existing facilities up to 7.5 megawatts shall be considered
59 renewable energy and no such facility shall involve pumped storage of water nor construction of
60 any new dam or water diversion structure constructed later than January 1, 1998; (7) waste-to-
61 energy which is a component of conventional municipal solid waste plant technology in
62 commercial use; (8) low emission advanced biomass power conversion technologies using fuels
63 such as wood, by-products or waste from agricultural crops, food or animals, energy crops,
64 biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae;
65 (9) marine or hydrokinetic energy as defined in section 3; or (10) geothermal energy. A facility
66 in clause (7) shall not be a Class II renewable generating source unless it operates or contracts
67 for one or more recycling programs approved by the department of environmental protection. At
68 least 50 per cent of any revenue received by the facility through the sale of Massachusetts RPS-
69 eligible renewable energy certificates shall be allocated to such recycling programs. A facility in
70 clause (6) that receives a new license after January 1, 2021 under 18 C.F.R. 16 et seq. and
71 provides formal notification to the department that the facility seeks to participate as a Class I
72 renewable generating source, shall no longer be a Class II renewable generating source. A Class
73 II renewable generating source may be located behind the customer meter within the ISO-NE
74 control area provided that the output is verified by an independent verification system
75 participating in the NEPOOL GIS accounting system and approved by the department.