HOUSE . . . . . No. 4501

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 4, 2024.

The committee on Telecommunications, Utilities and Energy, to whom was referred the petition (accompanied by bill, House, No. 3187) of Adrian C. Madaro and others relative to energy facilities siting improvement to address environmental justice, climate, and public health, and the petition (accompanied by bill, House, No. 3215) of Jeffrey N. Roy for legislation to expedite permitting for electric decarbonization infrastructure projects, reports recommending that the accompanying bill (House, No. 4501) ought to pass.

For the committee,

JEFFREY N. ROY.

FILED ON: 2/7/2024

HOUSE . . . . . No. 4501

The Commonwealth of Massachusetts

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

An Act to expedite permitting for electric decarbonization infrastructure projects.

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. Section 69G of Chapter 164 of the General Laws is hereby amended by inserting after the definition of "electric company" the following: -

"Energy storage system", a commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy and which may be owned by an electric distribution company; provided, however, that an energy storage system shall (i) reduce the emission of greenhouse gases; (ii) reduce demand for peak electrical generation; (iii) defer or substitute for an investment in generation, transmission or distribution assets; or (iv) improve the reliable operation of the electrical transmission or distribution grid; and provided further, that an energy storage system shall: (1) use mechanical, chemical or thermal processes to store energy that was generated for use at a later time; (2) store thermal energy for direct heating or cooling use at a later time in a manner that avoids the need to use electricity at that later time; (3) use mechanical, chemical or thermal processes to store energy generated from renewable resources for use at a later time; or (4) use mechanical, chemical or

thermal processes to capture or harness waste electricity and to store the waste electricity generated from mechanical processes for delivery at a later time.

SECTION 2. Chapter 164, Section 69K1/2 of the General Laws is hereby amended in line 1 by inserting after the word “facility” the following: - by striking the first sentence and replacing it with the following:

“Any applicant that proposes to construct or operate within the commonwealth a generating facility or an energy storage system designed for or capable of operating at a gross capacity of 100 megawatts or more as defined in section 1 including associated buildings, ancillary structures, and transmission interconnections that are not otherwise facilities, may petition the board for a certificate of environmental impact and public interest with respect to such generating facility or energy storage system.”

Chapter 164, Section 69K1/2 of the General Laws is further amended by inserting the phrase “or energy storage system” after the phrase “generating facility” in each instance that it occurs, and replacing the word “facility” in the last sentence of paragraph one with the following: “generating facility or energy storage system”.

SECTION 3.

Chapter 164, Section L1/2 of the General Laws is hereby amended by inserting the phrase “or energy storage system” after the phrase “generating facility” in subsection (a)(1) and (a)(2), and by inserting at the end of subsection (a)(3) the following: “and, further provided, that no such filing shall be required with respect to an energy storage system.

SECTION 4.

Chapter 164, Section 69O1/2 of the General Laws is hereby amended by striking the first sentence and replacing it with the following:

"As expeditiously as possible, but in no event later than 180 days from the date of filing a petition for a certificate pursuant to section 69K.5 with regard to a generating facility or to an energy storage system the board shall, by a majority vote, render a decision upon the petition either by denying the petition or by granting the petition, or by granting the petition subject to such terms and conditions as the board may determine."

Chapter 164, Section 69O1/2 of the General Laws is further amended by inserting "or energy storage system" after each instance of the phrase "generating facility".

SECTION 5

The General Laws are hereby amended by inserting after chapter 164B the following chapter 164C:

CHAPTER 164C: EXPEDITED PERMITTING FOR ELECTRIC DECARBONIZATION INFRASTRUCTURE PROJECTS

Section 1. Definitions.

As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:

(1) "Advisory Opinion", A written recommendation from a state and local governmental authority that would otherwise have jurisdiction over the permittee, or as provided at the request of the Office, regarding the siting of a proposed electric decarbonization infrastructure project, including its impacts and any methods or conditions to minimize such impacts. Advisory

opinions of the state and local authorities are not final decisions and are not subject to judicial review or other delays in the Office's review.

(2) "Agency", an agency, department, board, commission or authority of the commonwealth, and any authority of any municipality which is specifically created as an authority under special or general law.

(3) "Applicant", an electric company or developer of a RPS Class 1 project, as defined in section 11F of Chapter 25A, that applies for a consolidated permit pursuant to this chapter.

(4) "Best management practices", broadly accepted industry practices that have been determined by the office pursuant to this chapter to be the most effective and practical means of avoiding, minimizing, or mitigating adverse environmental impacts caused by electric decarbonization infrastructure projects similar to the qualifying project.

(5) "Board", the energy facilities siting board.

(6) "Consolidated permit", a permit issued by the office pursuant to this chapter 21P and the rules and regulations promulgated by the office.

(7) "Cumulative impact analysis", a written report that assesses whether the proposed facility is necessary to meet local energy use needs and that such need cannot be accomplished through less harmful means and considers the potential for harmful exposure, public health or environmental risk, or other effect occurring in a specific geographical area, including from any environmental pollution emitted or released routinely, accidentally, or otherwise, from any

source, and assessed based on the combined past, present, and reasonably foreseeable emissions and discharges affecting the geographical area;

(8) “Department”, the department of environmental protection.

(9) “Director”, the director of the office.

(10) “Distributed generation”, means as defined section 1 of Chapter 164.

(11) “Distribution”, means as defined in section 1 of Chapter 164.

(12) “Distributed energy resources”, means as defined in section 1 of Chapter 164.

(13) “Electric company”, means as defined in section 1of Chapter 164.

(14) “Electric decarbonization infrastructure project”, electric sector infrastructure projects that: (i) improve grid reliability, communications, and resiliency; (ii) enable increased, timely adoption of and interconnection to renewable energy and distributed energy resources; (iii) deploy energy storage and electrification technologies necessary to decarbonize the environment and economy; (iv) prepare for future, climate-driven impacts on the transmission and distribution systems; (v) accommodate increased transportation electrification, increased building electrification, and other potential future demands on distribution, interconnection and, where applicable, transmission systems; (vi) accelerate the retirement of fossil fuel infrastructure assets including natural gas distribution systems; or (vii) otherwise facilitate or expand the commonwealth’s capacity to realize its statewide greenhouse gas requirements and goals.

(15) “Electric-sector modernization plan”, a plan required by and approved pursuant to section 92B of Chapter 164 of the General Laws.

(16) “Energy storage system”, means as defined in section 1 of Chapter 164.

(17) “Environmental impact report”, means as defined in section 62B of chapter 30.

(18) “Environmental justice community advocate”, the environmental justice community advocate established under Section 14 of this chapter.

(19) “Executive office”, the executive office of energy and environmental affairs.

(20) “Generation facility”, means as defined in section 1 of Chapter 164.

(21) “Host community”, any municipality within whose jurisdictional boundaries a qualifying project is proposed.

(22) “Municipality”, a city, town, or other political subdivision of the commonwealth.

(23) “Non-renewable energy”, means as defined in section 1 of Chapter 164.

(24) “Office”, the electric decarbonization infrastructure permitting office created by this chapter.

(25) “Permittee”, an electric company that has received a consolidated permit pursuant to this chapter.

(26) “Qualifying project”, an electric decarbonization infrastructure project

(27) “Ready for load date”, the first date when the applicant can operate the project at the proposed capacity.

(28) “Renewable energy”, means as defined in section 1 of Chapter 164.

(29) “Secretary”, the secretary of the executive office.

(30) “Standard conditions”, permit conditions designed to avoid, minimize, or mitigate potential adverse environmental impacts from the siting, design, construction, and operation of electric decarbonization infrastructure projects, which are codified in the office’s regulations and shall be applicable to all projects that receive a consolidated permit pursuant to this chapter 21P.

(31) “Special conditions”, permit conditions deemed necessary by the office to avoid, minimize, mitigate, or offset any potential significant site-specific adverse environmental impacts that may be caused or contributed to by the siting, design, construction, or operation of a qualifying project and are unable to be addressed by standard conditions and best management practices.

(32) “Total project costs”, all project costs incurred by the applicant up to the ready for load date.

(33) “Transmission”, means as defined in section 1 of Chapter 164.

Section 2. Establishment of Office; Authority.

(a) No later than 90 days after the enactment of this chapter, the board shall establish the office, consisting of a director appointed by the board and such staff as are necessary to undertake the duties of the office under this chapter.

(b) The office shall exercise its authority by and through the board and director as specified in this chapter. The director and staff shall collectively have expertise in electric sector decarbonization, permitting requirements for electric infrastructure projects, technical and engineering expertise in electric decarbonization infrastructure projects, community engagement

and environmental justice policy, and such other areas as are necessary to carry out the purposes of this chapter.

Section 3. Funding of the Office.

(a) The office shall establish fees for any review of an application for a consolidated permit under this chapter or a violation of this chapter or regulation promulgated hereunder. Such fees shall be set such that they are reasonably expected to cover such reviews and the costs of salaries, services, equipment or other expenses that are incurred by the office including the salaries of the director and all staff, during such review. The application fee shall be sufficient to pay for an expert independent of the applicant or applicants to investigate, evaluate and render an opinion on the appropriateness and need of the site or sites proposed by the applicant or applicants, on any site or sites alternative to those proposed by the applicant or applicants and on compliance with standard conditions and any special conditions applicable to the project and the site. Such an expert shall be engaged by the office unless there is no objection to the proposed site or sites by any person during the public comment period and in any event at the request of any other person who timely filed comments during the public review process or of any other person who timely filed comments during the review of a consolidated permit and who can demonstrate substantial adverse impact from the issuance or denial of a consolidated permit unique from any such impacts on the general public.

(b) There shall be established and set up on the books of the commonwealth a separate fund. The office shall be the trustee of the fund and shall expend monies to finance operational activities of the office. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited

thereto, application fees for permits issued under this chapter and such additional funds as are subject to the direction and control of the office. All available monies in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year. The office shall record all expenditures made by the office on the Massachusetts management and accounting reporting system according to regulations established by the state comptroller.

(c) The office shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the provisions applicable to agencies under the control of the governor including, but not limited to, chapters 7, 7A, 10 and 29; provided, however, that the comptroller may identify any additional instructions or actions necessary for the office to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. Unless otherwise exempted by law or the applicable central service agency, the office shall participate in any other available commonwealth central services including, but not limited, to the state payroll system under section 31 of said chapter 29 and may purchase other goods and services provided by state agencies in accordance with comptroller provisions. The comptroller may chargeback the office for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The office shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of chapter 29.

(d) In addition to the foregoing, the office shall annually seek funding from state appropriations to fund a dedicated reviewer at the Massachusetts Historical Commission who

shall conduct reviews of qualifying projects pursuant to section 106 of the National Historic Preservation Act, when applicable.

(e) An electric company shall provide to each municipality within its service area a list of all electric decarbonization infrastructure projects and their sites under consideration within that municipality and abutting municipalities, which list shall be updated every six months. The municipality shall within 90 days of receipt of the list provide to the electric company any objections to each such project or site. Upon receipt of any such objections, the municipality and electric company shall undertake to resolve such objections within 90 days thereafter. No application by the electric company in its own name or by any person acting for, at the behest of, in coordination with, as a proxy for or on behalf of the electric company for a consolidated permit for a specific project or a specific site shall be filed before the 90-day resolution period for such project or site has ended.

Section 4. Board and Office Responsibilities; Objectives.

(a) The board shall be charged with:

(i) developing and promulgating rules and regulations to implement this chapter, including by codifying standard conditions that shall apply uniformly to permitted qualifying projects, including, without limitation, by adopting by reference such standard conditions as have been developed by other agencies;

(ii) adopting best management practices that may be incorporated by reference into consolidated permits issued under this chapter, including, without limitation, best management practices that have been developed by an electric company and incorporated into their permits before the enactment of this chapter, and applicable best management practices utilized by

agencies in permitting similar electric decarbonization infrastructure projects prior to the enactment of this chapter;

(iii) approving and issuing consolidated permits

(iv) ensuring said standard conditions and best management practices comply with environmental justice principles as established in sections 62 through 62L, inclusive, of chapter 30;

(v) developing model host community agreements for qualifying projects that reflect said best management practices, standard conditions, and environmental justice principles, publishing said materials in a publicly-accessible manner, and distributing said materials to applicants and municipalities upon receipt of an application;

(b) The office shall be charged with:

(i) receiving, reviewing, and promptly acting upon applications for qualifying projects in accordance with this chapter and the rules and regulations promulgated by the board;

(ii) submitting recommended consolidated permits to the board for approval;

(iii) transferring, as necessary, consolidated permits;

(iv) monitoring projects permitted pursuant to this chapter and enforcing compliance with all terms and conditions therein; and

(v) conducting public hearings, inter-agency consultations, and other procedures incident to the permitting process that are necessary to effectuate this chapter's purposes.(c)

The board shall, within one year of the enactment of this chapter, promulgate regulations which:

(i) establish the consolidated permit application form and application fee for qualifying projects;

(ii) codify the consolidated permit application process and timeline for qualifying projects;

(iii) codify a process for applicants to submit cumulative impact analysis and environmental impact reports for all qualifying projects;

(iv) establish classes of electric decarbonization infrastructure projects based on common features, including structure and typical environmental impacts and develop a general permit for each class that includes (a) standard conditions that shall apply uniformly within the class and (b) uniform best management practices for each class that will be incorporated in the consolidated permit, by reference;

(v) develop and publish model host community agreements that include standard conditions, best management practices, estimated compensatory mitigation, and other community benefits for each class of electric decarbonization infrastructure project;

(vi) establish criteria for the review of special conditions proposed for inclusion in the consolidated permit;

(vii) establish an in lieu fee program for compensatory mitigation;

(viii) establish regulations that result in implementation of fire safety provisions related to battery and electric vehicle charging and attached home battery storage;

(ix) establish a process and timeline for the review of requests for the modification of consolidated permits previously granted;

(x) establish a protocol for monitoring and compliance enforcement, including any applicable penalties for noncompliance; and

(xi) establish such additional rules and procedures as necessary to implement and effectuate this chapter.

(d) In developing the general permit for each class of electric decarbonization infrastructure project, the board shall consult with electric companies, the environmental justice community advocate, municipalities, the department, the executive office, the department of public utilities, the energy facilities siting board, the environmental justice council, the executive office of public safety and security, the department of fire services, and other relevant state agencies with applicable subject matter expertise.

(e) Prior to the adoption of the general permit for each class of electric decarbonization infrastructure project, the board, in consultation with the environmental justice council, shall hold two public hearings to solicit comments from the public.

(f) The board shall ensure that its activity pursuant to this chapter provides for and is consistent with the objectives enumerated in this subsection. The board shall also ensure that all general permits advance:

(i) public safety;

(ii) protection of the environment and vulnerable natural resources;

(iii) electric sector decarbonization;

(iv) minimization or mitigation of land use impacts;

(v) protection of environmental justice populations and environmental justice principles as defined in section 62 of chapter 30;

(vi) progress toward the commonwealth's emissions reduction goals; and

(vii) minimization or mitigation of impacts on the ratepayers of the commonwealth.

(g) Notwithstanding the foregoing, land and areas subject to Section 40 of Chapter 131 and subject to rules and regulations promulgated thereunder or by a conservation commission established pursuant to Section 8C of Chapter 40 shall be exempt from a consolidated permit unless the applicant establishes by a preponderance of the evidence that there is no feasible route or alternative site for the proposed electric decarbonization infrastructure project, and, in that event, such project shall be located and constructed in a manner that is least intrusive on wetlands values as determined by the board under Section 4.

Section 5. Consolidated Permits; Transfer and Modification.

(a) Upon approving a qualifying project, the board shall issue the consolidated permit to the applicant which encompasses all state, regional, and local authorizations and authorizations needed for the exercise of eminent domain for underground easements and associated access for underground transmission, subject to article 97 of the Constitution, as may be necessary for electric decarbonization infrastructure siting, construction, upgrades, and operation.

(b) The consolidated permit shall be enforceable by the office in the manner provided in Section 10 and any applicable rules and regulations promulgated pursuant to this chapter. All

standard conditions, special conditions, and best management practices identified in a consolidated permit shall constitute enforceable provisions of the consolidated permit.

(c) After consideration of the recommendations of the Advisory Opinions, the board shall have sole and final discretion over the terms and conditions of the permit, including standard conditions, special conditions, and best management practices; provided, however, the board shall comply with subsection 4(e) of this chapter in selecting applicable standard conditions, special conditions, and best management practices.

(d) A consolidated permit issued by the board may be transferred or assigned, subject to the prior written approval of the office, to an electric company that agrees to comply with the terms, limitations, and conditions contained in said permit.

Section 6. Standard Conditions, Best Management Practices, and Community Benefits.

(a) The standard conditions established pursuant to this chapter shall be designed to avoid, minimize, or mitigate, to the maximum extent practicable, any potential significant adverse environmental and social impacts caused or contributed to by the siting, design, construction, upgrades to, or operation of qualifying projects. Such uniform standard conditions shall apply to those environmental and social impacts the office determines are common to each class of electric decarbonization infrastructure projects.

(b) The office shall promulgate regulations establishing an in lieu fee program for compensatory environmental mitigation that effectuates the restoration, establishment, enhancement or preservation of comparable environmental resources through funds paid to a government or non-profit entity. The in lieu fee program may be used at the election of the applicant to satisfy the standard of mitigation to the maximum extent practicable and advance the

objectives enumerated in subsection 4(f) of this chapter only to the extent that the office finds that avoidance and minimization are not practicable.

(c) The office shall develop and incorporate by reference in consolidated permits issued pursuant to this chapter best management practices based on best management practices that have been developed by an electric company and incorporated into their permits before the enactment of this chapter; as well as any applicable best management practices adopted by agencies in permitting similar electric decarbonization infrastructure projects prior to the enactment of this chapter. Such best management practices shall become enforceable terms of the consolidated permit when incorporated by reference therein.

(d) All standard conditions and best management practices shall, as applied to each qualifying project, conform to or advance the objectives enumerated in subsection 6(e) of this chapter.

Section 7. Applicant; Preemption.

(a) An electric company may, in lieu of seeking other permits or approvals as are required by the commonwealth, any department, commission, board or subdivision thereof, and any city or town, request that the office issue a consolidated permit for an electric decarbonization infrastructure project in accordance with this chapter, subject to the exemption in subsection 4(f). Any such project for which a consolidated permit is issued shall thereafter be built, maintained, upgraded, or operated in conformity with the terms, standard conditions, and special conditions, if any, contained in the consolidated permit.

(b) The board shall have exclusive authority over qualifying projects that seek a consolidated permit. No city or town or regional authority shall have authority over any

qualifying project undergoing permitting through the board nor shall any city or town or regional authority enact any bylaw, ordinance, or regulation with respect to qualifying projects undergoing permitting through the board.

(c) Notwithstanding any other provision of law, no other state agency, department, or authority, nor any municipality or agency thereof, may, except as expressly authorized under this chapter or the rules and regulations promulgated under this chapter, require any approval, consent, permit, certificate, contract, agreement, memorandum of understanding, or other condition for the development, design, construction, upgrades to, or operation of qualifying projects for which a consolidated permit has been granted in accordance with this chapter. This chapter shall supersede and replace all permitting and authorization requirements for qualifying projects for which a consolidated permit has been granted that would otherwise be required by the commonwealth, any department, commission, board or subdivision thereof, and any regional authority, city or town.

(d) Nothing in this chapter shall exempt any qualifying project granted a consolidated permit from compliance with all applicable federal laws and regulations.

(e) This section shall not apply to normal repairs, maintenance, replacements, non-material modifications and non- material improvements of electric sector infrastructure, whenever built, which are performed in the ordinary course of business and which do not constitute a violation of any applicable existing permit, including but not limited to projects otherwise exempt under Section 40 of Chapter 131 of the General Laws, Chapter 91 of the General Laws, or Section 61 of Chapter 30 of the General Laws.

Section 8. Application Review Process; Permit Issuance.

(a) Applicants shall initiate the application process for a consolidated permit by submitting a single application to the office in such form and detail as the board shall prescribe in its regulations promulgated pursuant to this chapter. Applications shall include, at a minimum the following information, in addition to any other information the office may require:

(i) a cover sheet listing all substantive local and state permits and authorizations that the applicant would have otherwise been required to obtain prior to commencing the electric decarbonization infrastructure project;

(ii) a description of the proposed project;

(iii) an explanation of why the applicant's project should be considered a qualifying project pursuant to this chapter;

(iv) proof of consultation with the host community with respect to the project and its potential impacts;

(v) documentation that all Massachusetts Environmental Policy Act requirements for advance notification to environmental justice populations, as defined in section 62 of chapter 30, have been met by the applicant, in accordance with Massachusetts Environmental Policy Act regulations;

(vi) an outreach plan for engagement with environmental justice populations, in accordance with Massachusetts Environmental Policy Act regulations;

(vii) documentation of compliance with any other pre-application substantive or procedural requirements of the Massachusetts Environmental Policy Act and its regulations;

(viii) an environmental impact report and cumulative impact analysis for all projects located in host communities with identified environmental justice populations; and

(ix) an application fee in the amount specified by the office in its regulations promulgated pursuant to this chapter.

(b) Within thirty days of receiving an application, the office shall determine whether the proposed electric decarbonization infrastructure project is a qualifying project. If the project does not qualify, the director shall deny the consolidated permit and issue a written explanation of its determination to the applicant within thirty days of receiving the application. Within fifteen days of receiving notice that an application for a consolidated permit has been denied, an applicant may request reconsideration by the board. The board shall review the application and office's determination and may issue a superseding determination that the project qualifies within fifteen days of receiving the request for reconsideration. Applicants may elect to have a pre-application meeting with the office to determine the eligibility of proposed electric decarbonization infrastructure projects.

(c) If the office confirms that the applicant's proposed project is a qualifying project, the office shall, within thirty days of receiving an application, publish public notice of availability of the application. Concurrently with the publication of notice of availability of an application, the office shall forward the application to the environmental justice community advocate and all state and local agencies that would otherwise have jurisdiction over any authorization required for the proposed project.

(d) Upon receiving notification of availability of an application for a consolidated permit from the office, such state and local agencies and the environmental justice community

advocate shall review the proposed electric decarbonization infrastructure project and identify potential significant site-specific adverse environmental impacts, if any, that may be caused or contributed to by the siting, design, construction, or operation of the project which are unable to be addressed by standard conditions and best management practices. Each agency and the environmental justice community advocate may, but shall not be required to, propose special conditions that avoid, minimize, or mitigate, to the maximum extent practicable, such impacts, and shall submit an advisory opinion containing its recommendations to the office within the public comment period.

(e) A sixty day public comment period shall commence on the date of publication of notice of availability of an application. The office may require a site visit if a site visit is requested by any local or state agency or public commenter within the first thirty days of the public comment period.

(f) The office may consult with any agency recommending special conditions during the public comment period. At the request of the office, an agency may provide support to the office within the scope of their respective statutory expertise, provided, however, that the director shall have sole discretion over which special conditions to include, if any, in the recommended consolidated permit submitted to the board.

(g) During the sixty-day comment period, a public hearing shall be held by the office if the electric decarbonization infrastructure project is proposed within five miles of an environmental justice population or if requested by twenty-five or more residents of the commonwealth within thirty days of public notice. All hearings conducted pursuant to this chapter shall conform to the procedures established by the office in its regulations promulgated

pursuant to this chapter. All hearings initiated under this section or pursuant to rules or regulations promulgated pursuant to this section may be conducted by the director or any person to whom the director shall delegate the power and authority to conduct such hearings or proceedings in the name of the office at any time and place.

(h) At any time during the public comment period and within thirty days of closure of the public comment period, the office may request information from the applicant that is necessary to identify appropriate standard conditions and best management practices, and to assess any agency recommendations for special conditions. The applicant shall respond to the office's request for information within thirty days. Failure to respond within thirty days may result in a proportional delay in the office's period for issuing a decision on the application.

(i) No later than one year from the date of public notice, plus any additional time as provided in subsection (h) of this section, the office shall submit to the board a recommended consolidated permit either approving or approving with special conditions a qualifying project. The recommended consolidated permit shall specify the state and local permits and authorizations that are encompassed therein and identify enforceable standard conditions and best management practices for the project in accordance with the regulations established under this chapter, except that if a qualifying project is recommended with special conditions, such special conditions shall replace or supplement standard conditions and best management practices, as stipulated in the consolidated permit. If an environmental impact report and cumulative impact assessment are required, the office shall only issue permits for projects where the environmental impact report demonstrates a finding of environmental and energy benefits to the impacted environmental justice populations without significant environmental or energy

burdens and the cumulative impact assessment demonstrates that there is no adverse public health, environmental, or climate impact to the impacted communities.

(j) Within one month from the date the office submits the recommended consolidated permit to the board, the board shall issue a final consolidated permit either approving the recommended consolidated permit or approving the recommended consolidated permit with changes to the special conditions. The board shall only change the special conditions in a recommended consolidated permit if those special conditions do not meet the regulatory criteria established for special conditions under subsection 4(c).

(k) If the board fails to issue a consolidated permit for a qualifying project within one month from the date the office submits the recommended consolidated permit to the board, the permit will be deemed approved and subject to all standard conditions and best management practices identified for electric decarbonization infrastructure projects of that class in the office's regulations promulgated pursuant to this chapter; subject to such delays caused by the applicant's failure to timely comply with the agency's request for information, per subsection 10(h). In the event that the permit is approved pursuant to this subsection, the office shall inform all participants in the public hearing and public comment process of their right to seek judicial review under section 11 within 7 days of approval.

(l) The board and office shall conform to the regulations established under subsection 6(c) and the objectives enumerated in subsection 4(f) of this chapter in reviewing an application and selecting applicable standard conditions, special conditions, and best management practices.

Section 9. Expedited Appeals Process.

(a) Any person aggrieved by the issuance or denial of a consolidated permit or other final decision of the board may seek judicial review of such decision as provided in this section.

(b) For purposes of this section, "person aggrieved" shall mean: (i) an applicant for a consolidated permit, or (ii) any other person who timely filed comments during the review of a consolidated permit and who can demonstrate substantial adverse impact from the issuance or denial of a consolidated permit unique from any such impacts on the general public.

(c) Appeals shall be limited to those filed within thirty days of permit issuance or denial, or other final decision of the board.

(d) The Supreme Judicial Court, or, at the discretion of the Court, a single justice thereof, shall have jurisdiction over appeals pursuant to this section and shall have the power to grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying and enforcing as so modified, remanding for further specific findings, or setting aside in whole or in part such decision of the board. The jurisdiction of the Supreme Judicial Court shall be exclusive and its judgment and order shall be final. All such proceedings shall be heard and determined by the court as expeditiously as possible and with lawful precedence over all other matters.

(e) The appeal shall be heard on the record and upon briefs to the court in the same manner as appeals heard pursuant to sections 14 through 16 of Chapter 30A of the General Laws. The findings of fact on which such decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole and matters of judicial notice set forth in the opinion. The grounds for and scope of review of the court shall be limited to whether the decision and action of the board is:

(i) in conformity with the constitution, laws and regulations of the commonwealth and the United States;

(ii) supported by substantial evidence in the record and matters of judicial notice properly considered and applied in the opinion;

(iii) within the board's statutory jurisdiction or authority;

(iv) made in accordance with procedures set forth in this chapter or established by rule or regulation pursuant to this chapter;

(v) arbitrary, capricious or an abuse of discretion; and

(vi) made pursuant to a process that afforded meaningful involvement of citizens affected by the facility regardless of age, race, color, national origin and income.

Section 10. Monitoring and Enforcement; Permit Suspension and Revocation.

(a) The office is authorized to monitor the construction and operation of qualifying projects

to ensure compliance with all terms and conditions, including standard conditions, special conditions, and best management practices, set forth in a consolidated permit issued for such project.

(b) The office is authorized to take such actions as may be necessary in its discretion to enforce compliance with all terms and conditions, including standard conditions, special conditions, and best management practices, set forth in the consolidated permit, in accordance with its rules and regulations promulgated pursuant to this chapter; provided, however, that the

office must first issue a detailed notice of the noncompliance to the permittee and allow the permittee fifteen days to cure the noncompliance.

Section 11. Massachusetts Community Just Transition Trust Fund.

1. Within thirty days of the ready for load date for the project, applicants shall pay to the board a surcharge based on the total project cost of the qualifying project.

2. The surcharge for qualifying projects shall be one percent (1.0%) of total project cost for all projects, except that the surcharge shall be one and one half percent (1.5%) for a project that includes an element sited within an environmental justice population, as defined in section 62 of chapter 30.

3. The surcharge shall be deposited by the board into the fund created by this section.

4. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Community Just Transition Trust Fund. The fund shall consist of all monies received pursuant to this section, as well as any monies received by the commonwealth from public and private sources as gifts, grants and donations to further a just and equitable transition to a decarbonized electric sector.

5. The executive office shall be the trustee of the fund and may deposit or invest revenue from the fund in savings banks, trust companies incorporated under the laws of the commonwealth, or banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, and any income therefrom shall be credited to the fund. Any monies that are unexpended at the end of each fiscal

year shall not revert to the General Fund and shall remain in the Massachusetts Community Just Transition Fund and be available for expenditure in the subsequent fiscal year.

6. The expenditure of revenues from the fund shall be solely for assisting communities and environmental justice populations transition to a decarbonized electric sector and to improve the reliability and resiliency of such communities in preparation for future, climate-driven impacts.

7. The secretary shall, within one year of the enactment of this chapter, establish guidelines for the expenditure of revenues from the fund. Such guidelines shall advance the objectives stated in Section 92B(a)(i)-(vi) of chapter 164 and shall conform with the environmental justice policies and principles established by the executive office.

8. The executive office shall make expenditures and disbursements of revenue from this fund in accordance with subsection 13(f) of this chapter and the guidance promulgated under subsection 13(g) without further appropriation. The executive office shall record all expenditures and disbursements made from this fund on the Massachusetts management and accounting reporting system according to regulations established by the state comptroller, and shall also maintain an online list of projects and initiatives supported by this fund.

Section 12. Environmental Justice Community Advocate

1. An environmental justice community advocate shall be appointed by the secretary, with input from and consultation with the Environmental Justice Council at the executive office.

2. The salary of the environmental justice community advocate, along with such support staff as necessary to fulfill the objectives in this section, shall be funded in accordance with section 5(a) of this chapter.

3. The environmental justice community advocate shall be charged with:

1. determining which classes of qualifying projects shall be subject to review of the environmental justice community advocate and publishing a public list of such classes;

2. reviewing applications for qualifying projects that are subject to review by the environmental justice community advocate and within environmental justice communities, coordinating comments from community groups, and recommending mitigation to be funded through the Massachusetts Community Just Transition Fund;

3. meeting quarterly with electric utilities to:

a. identify future projects that are subject to the environmental justice advocate's review and planned within environmental justice communities and discuss potential impacts and alternatives;

1. discuss the progress of ongoing qualifying projects subject to environmental justice advocate review and ensure that communication of the project's status and benefits is consistent and continuous; and

2. participate in strategic planning discussions for meeting electric sector decarbonization and modernization needs of environmental justice communities served by the utility; and

4. establishing and maintaining current a list of environmental justice community groups.