SENATE DOCKET, NO. 2468 FILED ON: 1/17/2025

SENATE . . . . . No. 2282

The Commonwealth of Massachusetts

PRESENTED BY:

Dylan A. Fernandes

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 advancing the clean energy transition.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Dylan A. Fernandes	*Plymouth and Barnstable*	
Steven Owens	*29th Middlesex*	*2/24/2025*

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SENATE . . . . . No. 2282

By Mr. Fernandes, a petition (accompanied by bill, Senate, No. 2282) of Dylan A. Fernandes and Steven Owens for legislation to create new divisions with the Division of Energy Resources to advance clean energy transition. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act advancing the clean energy transition.

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 2 of chapter 25A of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking the second paragraph and inserting in place thereof the following paragraph:-

There shall be within the department: (i) a division of energy efficiency, which shall work with the department of public utilities regarding energy efficiency programs; (ii) a division of renewable and alternative energy development, which shall oversee and coordinate activities that seek to maximize the installation of renewable and alternative energy generating sources that will provide benefits to ratepayers, advance the production and use of biofuels and other alternative fuels as the division may define by regulation and administer the renewable portfolio standard and the alternative portfolio standard; (iii) a division of green communities, which shall serve as the principal point of contact for local governments and other governmental bodies concerning all matters under the jurisdiction of the department of energy resources, excluding

matters involving the siting and permitting of small clean energy infrastructure facilities; (iv) a division of clean energy siting and permitting, which shall establish standard conditions, criteria and requirements for the siting and permitting of small clean energy infrastructure facilities by local governments and provide technical support and assistance to local governments, small clean energy infrastructure facility project proponents and other stakeholders impacted by the siting and permitting of small clean energy infrastructure facilities at the local government level; and (v) a division of clean energy procurement, which shall develop resource solicitation plans, administer procurements for clean energy generation and energy services and negotiate and manage contracts with clean energy generation and energy service facilities as required by section 21. Each division shall be headed by a director appointed by the commissioner and who shall be a person of skill and experience in the field of energy efficiency, renewable energy or alternative energy, energy regulation or policy and land use and planning, respectively. The directors shall be the executive and administrative heads of their respective divisions and shall be responsible for administering and enforcing the law relative to their division and to each administrative unit thereof under the supervision, direction and control of the commissioner. The directors shall serve at the pleasure of the commissioner, shall receive such salary as may be determined by law and shall devote full time during regular business hours to the duties of the office. In the case of an absence or vacancy in the office of a director or, in the case of disability as determined by the commissioner, the commissioner may designate an acting director to serve as director until the vacancy is filled or the absence or disability ceases. The acting director shall have all the powers and duties of the director and shall have similar qualifications as the director.

SECTION 2. Section 6 of said chapter 25A is hereby amended by inserting after subsection (14) the following subsection:

(15) develop resource solicitation plans, conduct procurements pursuant to such plans as approved by the department of public utilities and negotiate and execute contracts with clean energy generation and energy services providers pursuant to section 21.

SECTION 3. Section 21 of said chapter 25A is hereby further amended by repealing subsections (k) through (o), inclusive.

SECTION 4. Said chapter 25A is hereby further amended by adding the following section:-

Section 22. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Clean energy generation", electrical energy output, or that portion of the electrical energy output, excluding any electrical energy utilized for parasitic load of a clean existing generation unit, that qualifies under clean energy standard regulations established pursuant to subsection (c) of section 3 of chapter 21N.

"Clean energy solicitation", a competitive solicitation for clean energy associated environmental attributes or energy services completed by the department conducted pursuant to this section.

"Distribution company", a distribution company as defined in section 1 of chapter 164.

"Energy services", operation of infrastructure that increases the deliverability or reliability of clean energy generation or reduces the cost of clean energy generation, including, but not limited to, transmission, energy storage and demand response technologies.

"Environmental attributes", all present and future attributes under any and all international, federal, regional, state or other law or market, including, but not limited to, all credits or certificates that are associated, either now or by future action, with unit specific clean energy generation, including, but not limited to, those provided for in regulations promulgated pursuant to subsection (c) of section 3 of chapter 21N and sections 11F and 17.

"Long-term contract" a contract for a period of not more than 20 years.

(b) Notwithstanding any general or special law to the contrary, in order to maximize the commonwealth's ability to achieve compliance with limits and sublimits established pursuant to sections 3 and 3A of chapter 21N, the department shall investigate the necessity, benefits and risks of solicitations for environmental attributes or energy services, competitively solicit for environmental attributes or energy services established pursuant to said sections 3 and 3A of said chapter 21N and may negotiate and enter into long-term contracts for such environmental attributes or energy services.

(c) Not less than every 3 years, the department shall publish a resource solicitation plan, which shall include, but not be limited to: (i) a description of the clean energy generation needs sufficient to maximize the commonwealth's ability to achieve compliance with limits and sublimits established pursuant to sections 3 and 3A of chapter 21N, including resource generation type, nameplate capacity amounts and commercial operation dates for new resources; (ii) a schedule recommendation for clean energy solicitations that the department will conduct within the next 3 years; (iii) economic development objectives and requirements for the clean energy solicitations; (iv) a mechanism for the distribution companies to recover the costs associated with long-term contracts for clean energy associated environmental attributes or

energy services entered into by the department under this section, including any administrative costs to support the department's requirements under this section; and (v) a review of the previous clean energy solicitations, if applicable. The department shall consult with the department of public utilities and attorney general's office in the development of this resource plan in advance of publishing it. Any ex parte rules established by the department of public utilities shall not apply to this consultation process.

(d) The department shall file the resource solicitation plan and its recommendations with the department of public utilities. The department of public utilities shall review the resource solicitation plan and recommendations to determine whether the resource solicitation plan is a reasonable, appropriate and cost-effective mechanism to achieve the goals of this section. The department of public utilities shall approve, approve with modifications or reject the plan within 7 months of submission. Upon approval of the resource solicitation plan, the department of public utilities shall require the distribution companies to jointly propose tariffs consistent with the approved resource solicitation plan to recover costs associated with all contracts pursuant to this section not later than 3 months following the approval; provided, however, that the distribution companies shall not receive any remuneration, benefit or fee to compensate for costs associated with such contracts. The tariffs shall apportion costs associated with the contracts to be recovered from ratepayers among the distribution companies.

(e) The method for the clean energy solicitations shall be proposed by the department and shall utilize a competitive bidding process. The department shall consult with the attorney general regarding the choice of solicitation methods. The department may coordinate any solicitation under this section with other states, municipal light plants or other governmental and non-governmental organizations; provided, however, that the department shall describe any

impacts coordination may have on the solicitation, including any impacts to nameplate capacity amounts or quantities of clean energy generation attributes sought in its solicitation. After notice and the opportunity for public comment, the department shall proceed with the clean energy solicitation. The department may competitively solicit proposals for long-term contracts for: (i) environmental attributes from clean energy generation; or (ii) energy services contracts. The department may consult with other states, federal agencies and regional organizations, including, but not limited to, ISO New England Inc. or its successor; provided, however, that reasonable proposals have been received, the department shall make or cause to be made filings as necessary through the appropriate jurisdictional mechanism and enter into long-term contracts that are consistent with the roadmap plans published pursuant to chapter 21N.

(f) The department shall propose draft contracts and take all reasonable actions to structure the contracts, pricing or administration of the products purchased under this section to contribute towards achieving compliance with limits and sublimits established pursuant to sections 3 and 3A of chapter 21N in a cost-effective manner that minimizes rate-payer impacts.

(g) Long-term contracts executed pursuant to this section shall be subject to the approval of the department of public utilities. The department of public utilities shall consider the potential costs and benefits of the proposed long-term contract and shall approve a long-term contract if the department finds that the contract is cost-effective and consistent with the roadmap plans published pursuant to chapter 21N, taking into account the factors outlined in this section, consistency with the approved resource solicitation plan and the department's recommendations. The department of public utilities shall complete its review of long-term contracts submitted for its approval not later than 90 days after the contracts are filed by the department of energy resources.

(h) The department may retire any environmental attributes purchased pursuant to approved long-term contracts under this section on behalf of the commonwealth to be used toward satisfying compliance with the limits and sublimits established pursuant to sections 3 and 3A of chapter 21N and any regulations or programs established pursuant to sections 3 and 6 of said chapter 21N or sections 11F and 17. If any retired environmental attributes are eligible under a clean, renewable, clean peak or other energy portfolio standard established by the department or the department of environmental protection, the portfolio standard minimum obligations of suppliers subject to such standards may be reduced in proportion to any eligible environmental attributes retired pursuant to this section, subject to the discretion of the department and the department of environmental protection.

(i) There shall be a separate, non-budgeted special revenue fund known as the central procurement fund, which shall be administered by the department, without further appropriation, for funding long-term contracts consistent with this section. The fund shall be credited with: (i) funds or revenue collected by distribution companies pursuant to a tariff approved by the department of public utilities in furtherance of the objectives and requirements of this section; (ii) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (iii) interest earned on such funds or revenues; (iv) bid fees collected by the department from participants in clean energy solicitations conducted pursuant to this section; (v) other revenue from public and private sources, including gifts, grants and donations; and (vi) any funds provided from other sources. All amounts credited to the fund shall be used solely for activities and expenditures consistent with the public purposes of this section, including the ordinary and necessary administrative and personnel expenses of the department related to the administration and operation of the fund and performance of the duties established

by this section. Revenues deposited in the fund that are unexpended at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year. No expenditure made from the fund shall cause the fund to be in deficit at any point.

(j) A request for proposal or solicitation under this section shall include:

(i) documentation reflecting the applicant's demonstrated commitment to workforce or economic development within the commonwealth;

(ii) a statement of intent concerning efforts that the applicant and its contractors and subcontractors will make to promote workforce or economic development through the project;

(iii) documentation reflecting the applicant's demonstrated commitment to expand workforce diversity, equity and inclusion in its past projects within the commonwealth;

(iv) documentation as to whether the applicant and its contractors and subcontractors participate in a state or federally certified apprenticeship program and the number of apprentices the apprenticeship program has trained to completion for each of the last 5 years;

(v) a statement of intent concerning how or if the applicant and its contractors and subcontractors intend to utilize apprentices on the project;

(vi) documentation relative to the applicant and its contractors and subcontractors regarding their history of compliance with chapters 149, 151, 151A, 151B and 152, 29 U.S.C. § 201, et seq. and applicable federal antidiscrimination laws;

(vii) documentation that the applicant and its contractors and subcontractors are currently, and will remain, in compliance with chapters 149, 151, 151A, 151B, and 152, 29 U.S.C. § 201, et seq. and applicable federal anti-discrimination laws for the duration of the project;

(viii) documentation of the applicant's history with picketing, work stoppages, boycotts or other economic actions against the applicant and a description or plan on how the applicant intends to prevent or address such actions; and

(ix) documentation relative to whether the applicant and its contractors have been found in violation of state or federal safety regulations in the previous 10 years.

The department may require a wage bond or other comparable form of insurance in an amount to be set by the department to ensure compliance with law, certifications or department obligations.

(k) A proposal or solicitation issued by the department shall notify applicants that applicants shall be disqualified from the project if the applicant has been debarred by the federal government or commonwealth for the entire term of the debarment.

(l) An applicant shall, in a timely manner, provide documentation and certifications as required by law or otherwise directed by the department. Incomplete or inaccurate information may be grounds for disqualification, dismissal or other action deemed appropriate by the department.

(m) Applicants that demonstrate compliance with sections 26 to 27F, inclusive, of chapter 149 and the use of state or federally certified apprenticeship programs, shall receive added weight in clean energy solicitations under subsection (e).

SECTION 5. Said Chapter 25A is hereby amended by inserting after Section 17 a new section as follows:

Section 17A: (a) The department of energy resources may develop a statewide energy storage incentive program to encourage the continued development of energy storage resources connected to the electric distribution system throughout the commonwealth. The department shall, after notice and the opportunity for public comment, promulgate rules and regulations implementing an energy storage incentive program which: (i) promotes the orderly transition to a stable and self-sustaining energy storage market at a reasonable cost to ratepayers; (ii) considers underlying system costs, including but not limited to storage costs, balance of system costs, installation costs and soft costs; (iii) takes into account any federal or state incentives; (iv) minimizes direct and indirect program costs and barriers; (v) considers environmental benefits, energy demand reduction, distribution system benefits and other avoided costs provided by energy storage resources; (vi) encourages energy storage resource deployment where it can provide benefits to the distribution system; (vii) ensures that the costs of the program are shared collectively among all ratepayers of the distribution companies; and (viii) promotes stakeholder confidence through long-term incentive revenue certainty and market stability.

(b) Attributes, as defined by the department of energy resources, of the energy storage resources receiving incentives pursuant to this section shall be eligible for use by retail electric suppliers pursuant to their obligations pursuant to said section 17 of said chapter 25A.

(c) The department may hire additional staff to implement said energy storage incentive program. These positions may be funded from one or more sources including but not limited to the following: (i) appropriation, (ii) grants, or (iii) receipts of alternative compliance payments made pursuant to section 17 of chapter 25A of the general laws.

SECTION 6. Chapter 25A of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by adding the following section:

Section 23. The department shall utilize programs established pursuant to section 11 of Chapter 75 of the Acts of 2016 and authority granted under Section 4 of this Act to achieve a minimum goal of 10 gigawatts (GW) of solar measured in alternating current (AC) deployed in the commonwealth by 2035. The secretary shall ensure that annual solar deployment in the commonwealth increases at a pace sufficient to meet the 2050 statewide emissions limit of net zero greenhouse gas emissions established by the secretary on December 21, 2022.

SECTION 7: Section 92B of Chapter 164 of the General Laws is hereby amended by inserting the following subsection after subsection (e):

(f) Any submission to the department of a capital investment project proposal under the provisional program, as established by the department in 2021 and extended by the department in its electric sector modernization plan approval in 2024, shall be approved, denied, or approved with modifications by the department within 120 days of its submission.

SECTION 8. Chapter 164 of the General Laws is hereby amended by inserting after section 92C the following section:

Section 92D. (a) The department shall establish an office of a distributed generation and clean energy ombudsperson to, at a minimum, facilitate the efficient interconnection of distributed generation and implementation of proactive long-term system planning and cost allocation for interconnection of distributed generation. The office of the ombudsperson shall be staffed by a distributed generation and clean energy ombudsperson, a deputy ombudsperson, and two or more individuals, one of whom shall be an expert in the standards for interconnection of

distributed generation tariff and related department precedent and one of whom shall be an expert in technical solutions and standards for interconnecting distributed generation customers. The department shall develop a table of civil penalties that the ombudsperson may recommend that the department impose upon a finding that a distribution company has intentionally or negligently violated a rule, regulation or tariff provision, or that the company has exhibited a pattern or history of violating such rule, regulation or tariff provisions. In considering penalties under this section, the ombudsperson and the department shall consider the severity of the violation, the financial impact upon the distribution customer or customers, the distribution company's history of violations, the sufficiency of the distribution company's customer service relevant to the dispute, and other relevant factors at the discretion of the ombudsperson. The department may direct that all or a portion of a penalty take the form of restitution to be paid to an affected distribution customer.

(b) Distributed generation interconnection working groups, for the purpose of considering improvements to interconnection tariffs and interconnection technical standards and processes, are essential to meeting the Commonwealth's clean energy goals. To facilitate effective utilization of distributed generation interconnection working groups, the office of the ombudsperson shall develop a detailed process for stakeholder working groups in the Commonwealth dedicated to the interconnection of distributed generation to submit to the department and have considered consensus and non-consensus findings. This process shall include an expedited track for consensus findings. The department or the office of the ombudsperson shall act on each submission within six months.

(c) The department shall direct the distribution companies to contract with a third-party to assist in administrative facilitation of stakeholder working groups in the Commonwealth

dedicated to the interconnection of distributed generation. The hiring process shall be conducted by the Chairs and Vice Chairs of the working groups. The facilitator shall assist the working groups with agendas, meeting minutes, website maintenance, establishing and revising operating procedures and bylaws, coordinating written information exchanges and developing summary informational packages for submission to the department. The contract with the third-party facilitator must clearly indicate that the relationship of the facilitator with the working groups shall be managed by the Chairs and Vice Chairs of the working groups.

(d) The department shall provide a process for working groups in the Commonwealth dedicated to the interconnection of distributed generation to fund the engagement of consultants for support discussion of substantive topics.

(e) To support interconnection of distributed energy resources by diminishing the risk to interconnecting customers of multi-year interest carrying costs associated with interconnection deposits and in furtherance of the Commonwealth's clean energy mandates, effective immediately, the electric distribution companies shall accept a surety bond or letter of credit in lieu of cash, at the discretion of the interconnecting customer, for common system modification payments required under an interconnection service agreement to commence construction of required electric power system upgrades.

(f) Flexible interconnection is a process by which an electric distribution company provides an alternative interconnection solution to a distributed generation facility allowing for interconnection based on an agreed upon curtailment schedule. In recognition that flexible interconnection is likely to provide opportunity for reduced interconnection costs, expedited interconnection process, and increased network utilization, the department shall direct the

electric distribution companies to develop a proposal for a flexible interconnection program to be established in the Commonwealth. The electric distribution companies shall file a proposed model tariff provision or tariff revision with the department to implement a uniform program for flexible interconnection within six months of the effective date of this act. The department shall conduct a proceeding to investigate the flexible interconnection proposal, and within one year of the effective date of this act issue an order establishing a uniform flexible interconnection program.

(g) The electric distribution companies shall take the following procedural steps prior to filing a flexible interconnection program proposal with the department:

i. Convene a flexible interconnection stakeholder working group facilitated by one distributed generation industry member and one electric distribution company member and including (a) two representatives from each electric distribution company, (b) one or more representatives from each of the department of energy resources and the office of the attorney general, and (c) six representatives from the distributed generation industry.

ii. Attend and participate in bimonthly working group meetings.

iii. Present a draft joint model tariff provision or tariff revisions to the working group within three months of the effective date of this act.

iv. Accept written and oral comments on that draft and allow stakeholders to submit alternative language or proposed modifications.

v. Develop consensus language among that group, to the extent possible.

vi. Include in their filing with the Department any alternative proposal which is supported by six or more group members along with a summary and explanation of that proposal prepared by supportive group members.