

JOINT COMMITTEE ON TELECOMMUNICATIONS, UTILITIES, AND ENERGY

BILL SUMMARY

BILL NO. H.15

TITLE: An Act relative to retail electricity suppliers

SPONSOR: Inspector General Jeffrey S. Shapiro

COMMITTEE: Telecommunications, Utilities, and Energy

HEARING DATE: June 4, 2025

PRIOR HISTORY: *New bill*

CURRENT LAW:

REFERENCED IN SECTION 1 OF H.15

Section 1 of Chapter 21N lists definitions that apply to the chapter. Chapter 21N pertains to the Department of Environmental Protection (DEP); statewide greenhouse gas (GHG) emissions limits and sublimits; and clean energy and climate plans that are comprehensive, clear, and specific to help realize said limits. Sector-based emission sublimits become legally binding for a given year if the Commonwealth does not meet its five-year statewide aggregate GHG emission limits for that given year. These sectors are electric power; transportation; commercial and industrial heating and cooling; residential heating and cooling; industrial processes; and natural gas distribution and service.

Subsections (c) and (d) of section 3 of Chapter 21N state that electric sector associated emissions level and limits are to be set by the Secretary of the Executive Office of Energy and Environmental Affairs (EEA) and DEP in coordination with DOER. These levels and limits shall be based upon consumption and electricity purchases from the regional power grid, taking into account the Regional Greenhouse Gas Initiative established in Section 22 of Chapter 21A and the Renewable Portfolio Standard established in Section 11F of Chapter 25A.

Section 4 of Chapter 21N directs the EEA secretary to adopt greenhouse gas emissions limits for 2020, 2025, 2030, 2035, 2040, 2045, and 2050. The secretary must further consider the proportion of greenhouse gas emissions from each source or source category of GHG emissions. The secretary may further set a minimum level of GHG emissions and sources or source categories under this level will not be subject to emissions reductions requirements.

Section 7 of Chapter 21N authorizes the EEA secretary in consultation with the Executive Office of Administration and Finance (A&F) to consider and adopt regulations for market-based mechanisms to address climate change. Further, EEA and DEP are required to monitor compliance and enforce all rules,

regulations, orders, emission limits, reduction measures, and market-based mechanisms under Chapter 21N. DEP may authorize civil administration penalties for violations.

Section 2 of Chapter 21A tasks EEA and its departments and agencies to promulgate rules and regulations necessary to carry out their statutory responsibilities.

Sections 8 and 16 of Chapter 21A pertains the powers and functions of DEP and other departments. DEP is directed to assist in the implementation of Chapter 21N requirements.

Sections 2C of Chapter 111 authorizes the DEP Commissioner or their designee to issue enforcement orders if they find evidence of pollution violations. These orders have the same force and effect as department rules and regulations, however DEP may later revoke any such order.

Sections 142A to 142E of Chapter 111 refer to a range of statutes that empower DEP to adopt regulations to prevent pollution or contamination of the atmosphere; regulations to prevent pollution or contamination of the metropolitan air pollution control district and other air pollution control districts; require departments, agencies, commissions, authorities, or political subdivision to cooperate with DEP for air pollution control.

310 CMR 7.75 is a regulation promulgated by the Department of Environmental Protection to establish the Clean Energy Standard.

REFERENCED IN SECTION 2 OF H.15

Section 12 of Chapter 21N pertains to an alternative compliance payment; lien; priority of lien; civil actions; waiver or release; and security requirements of the Clean Energy Standard program. Subsection (a) states that any alternative compliance payments owed by a retail electric supplier to DEP shall, upon notice of non-compliance, constitute a debt owed to the department.

REFERENCED IN SECTION 3 OF H.15

Subsection (c) of Section 12 of Chapter 21N states that, in instances of non-compliance when an ACP becomes due, DEP may direct a civil action to be filed in the state's superior court to collect debt, enforce a department lien, or subject an indebted supplier's property to the payment of a liability.

Chapter 93A of the General Laws is known as the Massachusetts Consumer Protection Law. Section 2 declares unfair methods of competition and unfair or deceptive acts or practices in trade or commerce to be unlawful. Section 9 allows treble damages to be sought by a person who has been injured by another person's use of any method, act, or practice deemed unlawful by Section 2.

REFERENCED IN SECTION 4 OF H.15

Subsection (e) of Section 12 of Chapter 21N authorizes DEP to establish financial requirements for retail electric suppliers subject to Chapter 21N's requirements or standards. DEP may further require a bond or other security and may determine the amount and form for said bond or security as they deem necessary to ensure compliance.

REFERENCED IN SECTION 5 OF H.15

Section 7 of Chapter 25A grants DOER authority to collect price, inventory, and product delivery data from the following companies doing business in the Commonwealth: wholesalers and resellers of petroleum products, electricity, and natural gas and suppliers of other fuels available in the state. Further, Section 7 states that all electric and gas companies, transmission companies, distribution companies, suppliers, aggregators, natural gas suppliers (excluding gas companies) that sell or distribute electricity or natural gas in the state must report to DPU semi-annually the rates charges for default service (also known as “basic service”) and low-income service. Violations of this chapter are punishable by a five thousand dollar fine per offense.

Section 11F of Chapter 25A establishes the Class I Renewable Portfolio Standard (Class I RPS) and the Class II Renewable Portfolio Standard (Class II RPS).

Section 11F1/2 of Chapter 25A establishes the Alternative Portfolio Standard.

REFERENCED IN SECTION 6 OF H.15

Subsection (f) of Section 11F of Chapter 25A states that DOER may add technologies to the Class I or Class II RPS after conducting administrative proceedings, so long as they are not coal, oil, natural gas, woody biomass, or nuclear power. DOER is required to establish regulations that allow a retail electric supplier to discharge its obligation under the Class I and Class II Renewable Portfolio Standard to purchase a minimum percentage of Renewable Energy Credits (RECs) for their electricity portfolio by making an alternative compliance payment in an amount established by DOER and in accordance with compliance filing requirements established by the department.

REFERENCED IN SECTION 7 OF H.15

Subsection (i) of Section 11F of Chapter 25A states that a municipal light plant is exempt from the Class I and Class II RPS obligations so long as said MLP is exempt from the requirements to allow competitive retail supply under section 47A of Chapter 164.

REFERENCED IN SECTION 8 OF H.15

Subsection (c) of Section 11F1/2 of Chapter 25A allows a retail supplier to discharge its obligation under the Alternative Portfolio Standard to purchase a minimum percentage of Alternative Energy Credits (AECs) for their electricity portfolio by making an alternative compliance payment in an amount established by DOER and in accordance with compliance filing requirements established by the department.

REFERENCED IN SECTION 9 OF H.15

Subsection (e) of Section 11F1/2 of Chapter 25A states that DOER may allow 1 alternative energy credit to be earned for less than the standard amount of 3,412,000 British Thermal Units (BTUs) for the purpose of stimulating the development of new on-site energy generating resources.

SUMMARY:

SECTION 1

This legislation adds a definition for “clean energy standard” to Section 1 of Chapter 21N. The definition asserts that a clean energy standard program, promulgated by DEP as 310 CMR 7.75, was established pursuant to statutory authority to assist the state in achieving its GHG reduction goals (subsections (c) and (d) of section 3 and sections 4 and 7 of chapter 21N; sections 2, 8 and 16 of chapter 21A; and sections 2C and sections 142A to 142E of chapter 111).

SECTION 2

Subsection (a) of Section 12 of Chapter 21N is amended by the legislation to expand what would constitute a debt to DEP. Any alternative compliance payment, including any interest, additional amount, addition to debt or assessable penalty pursuant to Section 142A of Chapter 111 would constitute a debt to the department. Section 142 pertains to DEP’s authority to authority to adopt regulations to prevent pollution or contamination of the atmosphere and is cited as part of the statutory basis for the term “clean energy standard” that is defined in Section 1 of this bill.

SECTION 3

This legislation strikes and replaces subsection (c) of Section 12 of Chapter 21N, adding that DEP shall require compliance filings for the Clean Energy Standard with the department by April 1 or the business day thereafter of the subsequent year. DEP shall further invoice retail electricity suppliers for the ACPs they owe within 10 business days following the compliance deadline with payment due April 30th or the business day thereafter. The invoice must include the amount owed, procedures for submitting a compliance filing and an ACP, and notice of penalties due to failing to submit materials. This shall include information on payment required by clause three of subsection (e) of said Section 12, as inserted by this legislation. DEP’s billing practices shall align with the Comptroller’s Office.

The bill retain language from subsection (c) which states that, in instances of non-compliance when an ACP becomes due, DEP may direct a civil action to be filed in the state’s superior court to collect debt, enforce a department lien, or subject an indebted supplier’s property to the payment of a liability.

It further adds language that the state may seek injunctive relief in superior court. The court shall have the jurisdiction to enjoin the violation and provide further appropriate relief. Retail electric suppliers shall be considered to be an unfair or deceptive act under Chapter 93A.

SECTION 4

This legislation strikes and replaces subsection (e) of Section 12 of Chapter 21N. Section 12 pertains to an alternative compliance payment; lien; priority of lien; civil actions; waiver or release; and security requirements of the Clean Energy Standard program.

Clause (i) requires that a retail electricity supplier that is not a distribution company to annually provide evidence of financial security to DPU. Said security must:

- Be in the form of a surety bond or other financial instrument
- Be greater than \$100,000, or 20% of a retail supplier’s estimated gross receipts for its first full year of operation, or 20% of said receipts for the preceding year of the operation, not including revenue from the provision of basic service, for any year after the first year of operation

- Name the department as the beneficiary, obligee, or guaranteed party, allowing the department to access the funds upon a notice of default.
- Expire no sooner than one year
- Be adjusted annually if based upon actual or gross receipts

Clause (ii) states that suppliers that fail to meet compliance requirements must submit a compliance plan for the next three years. This plan must be filed with DEP no later than the noncompliant year on April 30th or the first business day thereafter.

Clause (iii) requires DEP to notify a non-compliant supplier of its requirement to pay the department via the financial security as submitted to DEP the prior January 31st. This requirement does not apply to suppliers that have a department-approved alternative payment plan to discharge its annual obligations, so long as the plan was approved prior to April 30th. Payment is required within 30 days and must be equal to either their ACP annual obligation or the full amount of their financial security, whichever is less.

Clause (iv) states that if the collection of a supplier's financial security doesn't sufficiently cover a supplier's full annual obligation, the supplier will remain noncompliant, and DEP must document and enforce said noncompliance.

Clause (v) states DEP reserves all rights to ensure collection of ACPs per annual compliance obligations, including petitioning DPU to investigate a noncompliant supplier.

Clause (vi) requires DEP to promulgate regulations to implement the requirements of subsection (e).

SECTION 5

This bill amends Section 7 of Chapter 25A to establish civil penalties for non-compliant retail electricity suppliers participating in the RPS or APS program. Said penalties shall be a maximum of \$25,000 per violation, with each additional day that a violation continues counted as a new violation. The civil penalty may be assessed in an action brought by the state in superior court. The state may further seek injunctive relief in superior court. The court shall have the jurisdiction to enjoin the violation and provide further appropriate relief. Retail electric suppliers shall be considered to be an unfair or deceptive act under Chapter 93A.

SECTION 6

Subsection (f) of Section 11F of Chapter 25A requires DOER to establish regulations that allow a retail electric supplier to discharge its obligation under the Class I and Class II Renewable Portfolio Standard to purchase a minimum percentage of Renewable Energy Credits (RECs) for their electricity portfolio by making an alternative compliance payment in an amount established by DOER and in accordance with compliance filing requirements established by the department.

This bill requires the compliance filings for the Class I and II Renewable Portfolio Standards to be submitted to the department by April 1st or the business day thereafter of the subsequent year.

DOER shall further invoice retail electricity suppliers for the ACPs they owe within 10 business days following the compliance deadline with payment due April 30th or the business day thereafter. The invoice must include the amount owed, procedures for submitting a compliance filing and an ACP, and notice of penalties due to failing to submit materials. This shall include information on payment required by clause three of subsection (e) of Section 11F of Chapter 25A, as inserted by this legislation. DOER's billing practices shall align with the Comptroller's Office.

SECTION 7

This legislation inserts subsection (j) after subsection (i) of Section 11F of Chapter 25A. Section 11F pertains to the Class I and Class II Renewable Portfolio Standard.

Clause (i) requires that a retail electricity supplier that is not a distribution company to annually provide evidence of financial security to DPU. Said security must:

- Be in the form of a surety bond or other financial instrument
- Be greater than \$100,000, or 20% of a retail supplier's estimated gross receipts for its first full year of operation, or 20% of said receipts for the preceding year of the operation, not including revenue from the provision of basic service, for any year after the first year of operation
- Name the department as the beneficiary, obligee, or guaranteed party, allowing the department to access the funds upon a notice of default.
- Expire no sooner than one year
- Be adjusted annually if based upon actual or gross receipts

Clause (ii) states that suppliers that fail to meet compliance requirements must submit a compliance plan for the next three years. This plan must be filed with DOER no later than the noncompliant year on April 30th or the first business day thereafter.

Clause (iii) requires DOER to notify a non-compliant supplier of its requirement to pay the department via the financial security as submitted to DOER the prior January 31st. This requirement does not apply to suppliers that have a department-approved alternative payment plan to discharge its annual obligations, so long as the plan was approved prior to April 30th. Payment is required within 30 days and must be equal to either their ACP annual obligation or the full amount of their financial security, whichever is less.

Clause (iv) states that if the collection of a supplier's financial security doesn't sufficiently cover a supplier's full annual obligation, the supplier will remain noncompliant, and DOER must document and enforce said noncompliance.

Clause (v) states DOER reserves all rights to ensure collection of ACPs per annual compliance obligations, including petitioning DPU to investigate a noncompliant supplier.

Clause (vi) requires DOER to promulgate regulations to implement the requirements of subsection (j).

SECTION 8

Subsection (c) of Section 11F1/2 of Chapter 25A requires DOER to establish regulations that allow a retail electric supplier to discharge its obligation under the Alternative Portfolio Standard to purchase a minimum percentage of Alternative Energy Credits (AECs) for their electricity portfolio by making an alternative compliance payment in an amount established by DOER and in accordance with compliance filing requirements established by the department.

This bill requires the compliance filings for the Alternative Portfolio Standard to be submitted to the department by April 1st or the business day thereafter of the subsequent year.

DOER shall further invoice retail electricity suppliers for the ACPs they owe within 10 business days following the compliance deadline with payment due April 30th or the business day thereafter. The invoice must include the amount owed, procedures for submitting a compliance filing and an ACP, and notice of penalties due to failing to submit materials. This shall include information on payment required by clause three of subsection (f) of Section 11F1/2 of Chapter 25A, as inserted by this legislation. DOER's billing practices shall align with the Comptroller's Office.

SECTION 9

This legislation inserts subsection (f) after subsection (e) of Section 11F1/2 of Chapter 25A. Section 11F1/2 pertains to the Alternative Portfolio Standard.

Clause (i) requires that a retail electricity supplier that is not a distribution company to annually provide evidence of financial security to DPU. Said security must:

- Be in the form of a surety bond or other financial instrument
- Be greater than \$100,000, or 20% of a retail supplier's estimated gross receipts for its first full year of operation, or 20% of said receipts for the preceding year of the operation, not including revenue from the provision of basic service, for any year after the first year of operation
- Name the department as the beneficiary, obligee, or guaranteed party, allowing the department to access the funds upon a notice of default.
- Expire no sooner than one year
- Be adjusted annually if based upon actual or gross receipts

Clause (ii) states that suppliers that fail to meet compliance requirements must submit a compliance plan for the next three years. This plan must be filed with DOER no later than the noncompliant year on April 30th or the first business day thereafter.

Clause (iii) requires DOER to notify a non-compliant supplier of its requirement to pay the department via the financial security as submitted to DOER the prior January 31st. This requirement does not apply to suppliers that have a department-approved alternative payment plan to discharge its annual obligations, so long as the plan was approved prior to April 30th. Payment is required within 30 days and must be

equal to either their ACP annual obligation or the full amount of their financial security, whichever is less.

Clause (iv) states that if the collection of a supplier's financial security doesn't sufficiently cover a supplier's full annual obligation, the supplier will remain noncompliant, and DOER must document and enforce said noncompliance.

Clause (v) states DOER reserves all rights to ensure collection of ACPs per annual compliance obligations, including petitioning DPU to investigate a noncompliant supplier.

Clause (vi) requires DOER to promulgate regulations to implement the requirements of subsection (f).