FILED ON: 1/20/2011

SENATE

. . No. 1679

The Commonwealth of Massachusetts

PRESENTED BY:

Michael R. Knapik

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 passage of the accompanying:

An Act relative to competitively priced electricity in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael R. Knapik	
	\Box [District]
Stephen L. DiNatale	3rd Worcester
James J. Dwyer	30th Middlesex
Steven L. Levy	4th Middlesex
Bruce E. Tarr	
	\Box [District]

SENATE No. 1679

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 1679) of Michael R. Knapik, Stephen L. DiNatale, James J. Dwyer, Steven L. Levy and others for legislation relative to competitively priced electricity in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

An Act relative to competitively priced electricity in the Commonwealth.

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

- SECTION 1. Section 19 of chapter 25 of the General Laws, as amended by section 11 of chapter 169 of the acts of 2008, is hereby amended by inserting after the words "NOx Allowance Trading Program;" the following:- provided however that all such amounts generated by municipal lighting plants pursuant to the Forward Capacity Market program administered by ISO New England and all amounts generated by all cap and trade pollution control programs, including, but not limited to, the carbon dioxide allowance trading mechanism established pursuant to the Regional Greenhouse Gas Initiative Memorandum of Understanding and the NOx Allowance Trading Program, shall be returned to said municipal lighting plants

 SECTION 2. Section 11F of Chapter 25A of the General Laws, as amended by section 32 of Chapter 169 of the Acts of 2008 is hereby amended by inserting after subsection (i)
- (j) Commencing January 1, 2009 an electric generation facility or other electric energy source shall not be eligible as a Class I or Class II renewable energy generating source under this section 11F if such facility or source is owned or leased by any entity that distributes electricity to end-use customers or by any affiliate of any such entity and any costs of the entity's or its affiliate's acquisition, leasing, construction, financing, ownership or operation of the facility or source are or will be recovered by the entity or its affiliate from end-use customers through its rates or other cost recovery mechanism determined or allowed by any non-municipal governmental regulatory authority. The foregoing shall not apply to any renewable energy generation source for which the department issues a statement of qualification under this section 11F prior to January 1, 2009 or to any facility or source approved for cost recovery under section
- 22 1A (f) of Chapter 164

the following new subsection:-

SECTION 3. Section 83 of Chapter 169 of the Acts of 2008 is hereby deleted and replaced with the following:

SECTION 83. Commencing on July 1, 2009, and continuing for a period of 5 years thereafter, each distribution company, as defined in section 1 of chapter 164 of the General Laws, shall be required twice in that 5 year period to competitively solicit proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost-effective long-term contracts to increase renewable energy supply for Massachusetts. The timetable and method for solicitation and execution of such contracts shall be proposed by the distribution company in consultation with the department of energy resources and shall be subject to review and approval by the department of public utilities. This long-term contracting obligation shall be separate and distinct from the electric distribution companies' obligation to meet applicable annual renewable portfolio standard, hereinafter referred to as RPS, requirements, set forth in section 11F of chapter 25A of the General Laws.

36 For purposes of this section, a long-term contract is defined as a contract with a term of 10 to 15 years. In developing the provisions of proposed long term contracts, the 37 distribution company shall consider multiple contracting methods, including long-term contracts 38 39 for renewable energy certificates, hereinafter referred to as RECs, for energy, and for a combination of both RECs and energy. The distribution company may decline to consider 40 contract proposals having terms and conditions that it determines would require the contract 41 obligation to place an unreasonable burden on the distribution company's balance sheet. All 42 43 proposed contracts shall be subject to the review and approval of the department of public 44 utilities.

45 The department of public utilities and the department of energy resources each 46 shall adopt regulations consistent with this section. The regulations shall: (a) allow renewable energy developers to submit proposals for long-term contracts conforming to the contracting 47 methods specified in the second paragraph; (b) require that contracts executed by the distribution 48 49 company under such proposals are filed with, and approved by, the department of public utilities before they become effective; (c) provide for an annual remuneration for the contracting 50 distribution company up to 4 per cent of the annual payments under the contract to compensate 51 52 the company for accepting the financial obligation of the long-term contract, such provision to be 53 determined by the department of public utilities at the time of contract approval; and (d) require that the renewable energy generating source to be used by a developer under the proposal meet 54 the following criteria: (1) have a commercial operation date, as verified by the department of energy resources, on or after January 1, 2008; (2) be qualified by the department of energy 56 57 resources as eligible to participate in the RPS program, under said section 11F of chapter 25A, and to sell RECs under the program; and (3) be determined by the department of public utilities 58 to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to 59 moderating system peak load requirements; (iii) be cost effective to Massachusetts electric

61 ratepayers over the term of the contract.; Cost effective as used in this section shall refer to 62 proposal which are likely to result in net ratepayer savings over the course of the contract period.

63 As part of its approval process, the department of public utilities shall consider 64 the attorney general's recommendations, which shall be submitted to the department of public 65 utilities within 45 days following the filing of such contracts with the department of public utilities. The department of public utilities shall take into consideration both the potential costs 66 and benefits of such contracts, and shall approve a contract only upon a finding that it is a cost 67 effective mechanism for procuring renewable energy on a long-term basis.

The distribution company shall not enter into long-term contracts pursuant to 70 this section that would, in the aggregate, exceed 3 per cent of the total energy demand from all distribution customers of the distribution company in its service territory.

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72 An electric distribution company may elect to use any energy purchased under 73 such contracts for resale to its customers, and may elect to retain RECs for the purpose of 74 meeting the applicable annual RPS requirements set forth in said section 11F of said chapter 75 25A. If the energy and RECs are not so used, such companies shall sell such purchased energy 76 into the wholesale spot market and shall sell such purchased RECs through a competitive bid process. Notwithstanding the foregoing, the department of energy resources shall conduct 78 periodic reviews to determine the impact on the energy and REC markets of the disposition of 79 energy and RECs hereunder, and may issue reports recommending legislative changes if it

80 SECTION 4. Section 11F of chapter 25A of the General Laws, as amended by 81 section 32 of chapter 169 of the acts of 2008, is hereby amended by deleting the terms "located in the commonwealth" from line 140 82

SECTION 5. Chapter 169 of the acts of 2008, is hereby amended by adding the 83 84 following Section after SECTION 124

85 SECTION 125. Electric and Gas distribution companies, as defined in Section 86 1 of Chapter 164 of the General laws, shall be required on an annual basis to report to the 87 Committee on Telecommunications and Energy a itemization of the estimated or actual ratepayer 88 cost of any program required under Chapter 169 of the Acts of 2008, unless said programs are 89 separately itemized on a ratepayers bill. Said reporting shall be submitted to the Committee on 90 January 31 and cover the actual amounts of the previous year and expected amounts for the current year and shall be presented as a cost on a volumetric basis whenever possible and by 92 customer class

93 Further, the Department shall promulgate regulations requiring any entity filing 94 an application for a general increase in rates pursuant to 220 CMR 5.00 et seq. to provide, upon written request from a nonresidential ratepayer and without cost, the ratepayer's previous 12 billing and usage statements as if the requested rate had been in effect for that period. Refusal to

provide such information within ten days of receipt of a request shall constitute a violation of220 CMR 12.00 et seq.

99 SECTION 6. Chapter 164 of the General Laws, as most recently amended, is 100 hereby further amended by adding at the end of the Section 1F the following:

(10) Notwithstanding the provisions of MGL 164 §94 or any other law to the contrary, whenever the Department makes a determination upon an application for a general increase in rates pursuant to 220 CMR 5.00 et seq. which results in an increase of 10% or greater above the rate paid at the time the application was filed, the Department shall allow for not more than a 7 ½% increase in rates for the first calendar year in which the approved rates are to go into effect, and no more than a 7 ½% increase in any subsequent year necessary to fulfill the approved rate.

When a non-residential ratepayer subject to an increase in distribution costs that is 15% or more than the ratepayer was paying prior to a Department approved rate increase that caused such increase, the ratepayer may file a petition within 20 days of the Department's issuance of the rate increase for a phase-in of the ratepayer's distribution cost increase over a period of years. The Department shall order the phase-in upon a showing of the increased distribution costs of 15% or more, but the ordered phase-in shall be for not less than two calendar years and for no more than 50% of the increase in the first calendar year of the phase in period. Such petition shall be acted upon by the Department within 30 days of its filing or prior to the rate becoming effective, whichever occurs sooner. Failure to act shall be deemed approval by the Department of the petition for no more than 50% of the increase in year one and no more than 50% in year two.

The Department shall not approve any financing, carrying, or deferral charges or any other costs charged to rate payers in consideration for the provisions of this section.

(11) Notwithstanding the provisions of Massachusetts General Laws Chapter 122 164, Section 94, or any other law to the contrary, whenever the Department makes a 123 determination upon an application for a rate or adjustment of a rate pursuant to 220 CMR 5.00 et 124 seq. or other applicable Department regulation, that includes the decoupling of revenue from 125 sales, the Department shall include only the reduced sales demonstrated to be the result of 126 energy efficiency programs administered by the applicant.