

**SENATE . . . . . No. 1757**

---

The Commonwealth of Massachusetts

PRESENTED BY:

***Benjamin B. Downing***

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

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

An Act relative to clean energy resources.

PETITION OF:

NAME:

*Benjamin B. Downing*

*Marjorie C. Decker*

DISTRICT/ADDRESS:

*Berkshire, Hampshire, Franklin and  
Hampden*

*25th Middlesex*

**SENATE . . . . . No. 1757**

---

By Mr. Downing, a petition (accompanied by bill, Senate, No. 1757) of Benjamin B. Downing and Marjorie C. Decker for legislation relative to clean energy resources. Telecommunications, Utilities and Energy.

---

The Commonwealth of Massachusetts

\_\_\_\_\_  
**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act relative to clean energy resources.

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

1 SECTION 1. Section 11F of chapter 25A, as appearing in the 2014 Official Edition, is  
2 hereby amended by striking out the first paragraph and inserting in place thereof the following:-

3 Section 11F. (a) The department shall establish a renewable energy portfolio standard for  
4 all retail electricity suppliers selling electricity to end-use customers in the commonwealth. By  
5 December 31, 1999, the department shall determine the actual percentage of kilowatt-hours sales  
6 to end-use customers in the commonwealth which is derived from existing renewable energy  
7 generating sources. Every retail supplier shall provide a minimum percentage of kilowatt-hours  
8 sales to end-use customers in the commonwealth from new renewable energy generating sources,  
9 according to the following schedule: (1) an additional 1 per cent of sales by December 31, 2003 ,  
10 or 1 calendar year from the final day of the first month in which the average cost of any  
11 renewable technology is found to be within 10 per cent of the overall average spot-market price  
12 per kilowatt-hour for electricity in the commonwealth, whichever is sooner; (2) an additional

13 one-half of 1 per cent of sales each year thereafter until December 31, 2009; (3) an additional 1  
14 per cent of sales every year until December 31, 2015; and (4) an additional 2 per cent of sales  
15 every year thereafter. For the purpose of this subsection, a new renewable energy generating  
16 source is one that begins commercial operation after December 31, 1997, or that represents an  
17 increase in generating capacity after December 31, 1997, at an existing facility. Commencing on  
18 January 1, 2009, such minimum percentage requirement shall be known as the “Class I”  
19 renewable energy generating source requirement.

20 SECTION 2. Chapter 169 of the Acts of 2008, as amended by Chapter 209 of the Acts of  
21 2012, is hereby further amended by inserting, after Section 83A, the following new section:-

22 SECTION 83B. Beginning on January 1, 2017 and continuing until December 31, 2020,  
23 all distribution companies in the commonwealth, as defined in section 1 of chapter 164 of the  
24 General Laws, shall be required in that time period to jointly solicit additional proposals from  
25 renewable energy developers and, provided reasonable proposals have been received, enter into  
26 additional cost-effective long-term contracts to facilitate the financing of renewable energy  
27 generation, apportioned among the distribution companies under this section. The timetable and  
28 method for solicitation and execution of such contracts shall be proposed by the distribution  
29 companies in consultation with the department of energy resources and shall be subject to review  
30 and approval by the department of public utilities. This long-term contracting obligation shall be  
31 separate and distinct from the electric distribution companies’ obligation to meet applicable  
32 annual renewable portfolio standard, hereinafter referred to as RPS, requirements, under section  
33 11F of chapter 25A of the General Laws.

34 A distribution company may fulfill its responsibilities under this section through  
35 individual competitive solicitations that are independent from the joint solicitation(s) for  
36 proposals from renewable energy developers and, provided reasonable proposals have been  
37 received, enter into cost effective long-term contracts to facilitate the financing of renewable  
38 energy generation under this section if, upon petition to the department of public utilities prior to  
39 a joint solicitation, the department rules that a solicitation by an individual distribution company  
40 would be more cost effective to ratepayers than said distribution company engaging in a joint  
41 solicitation.

42 For purposes of this section, a long-term contract shall be a contract with a term of 10 to  
43 20 years. In developing proposed long-term contracts, the distribution companies shall consider  
44 multiple contracting methods, including long-term contracts for renewable energy certificates,  
45 hereinafter referred to as RECs, for energy, and for a combination of both RECs and energy.  
46 Beginning January 1, 2017, the electric companies shall jointly select a reasonable method of  
47 soliciting proposals from renewable energy developers using a competitive bidding process only.  
48 Distribution companies may use timetables and methods for the solicitation of competitively bid  
49 long-term contracts approved by the department of public utilities prior to January 1, 2017. A  
50 distribution company may decline to consider contract proposals having terms and conditions  
51 that it determines would require the contract obligation to place an unreasonable burden on the  
52 distribution company's balance sheet, and may structure its contracts, pricing or administration  
53 of the products purchased to mitigate impacts on the balance sheet or income statement of the  
54 distribution company or its parent company, subject to the approval of the department of public  
55 utilities; provided, that such mitigation shall not increase costs to ratepayers. The distribution  
56 companies shall consult with the department of energy resources and the attorney general's

57 office regarding the choice of contracting methods and solicitation methods. All proposed  
58 contracts shall be subject to the review and approval of the department of public utilities.

59           The department of public utilities shall adopt regulations consistent with this section. The  
60 regulations shall: (a) allow renewable energy developers to submit proposals for long-term  
61 contracts conforming to the contracting methods specified in the second paragraph; (b) require  
62 that contracts executed by the distribution companies under such proposals are filed with, and  
63 approved by, the department of public utilities before they become effective; (c) provide for an  
64 annual remuneration for the contracting distribution company to compensate the company for  
65 accepting the financial obligation of the long-term contract, such provision to be acted upon by  
66 the department of public utilities at the time of contract approval; (d) to the extent there are  
67 significant transmission costs included in a bid, the department of public utilities shall authorize  
68 the contracting parties to seek recovery of such transmission costs of the project through federal  
69 transmission rates, consistent with policies and tariffs of the federal energy regulatory  
70 commission, to the extent the department finds such recovery is in the public interest; and (e)  
71 require that the renewable energy generating source to be used by a developer under the proposal  
72 meet the following criteria: (1) have a commercial operation date, as verified by the department  
73 of energy resources, on or after January 1, 2017; (2) be qualified by the department of energy  
74 resources as eligible to participate in the RPS program, under said section 11F of said chapter  
75 25A, and to sell RECs under the program; and (3) be determined by the department of public  
76 utilities to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to  
77 moderating system peak load requirements; (iii) be cost effective to Massachusetts electric  
78 ratepayers over the term of the contract; and (iv) where feasible, create additional employment  
79 and economic development in the commonwealth. As part of its approval process, the

80 department of public utilities shall consider the attorney general's recommendations, which shall  
81 be submitted to the department of public utilities within 45 days following the filing of such  
82 contracts with the department of public utilities. The department of public utilities shall consider  
83 both the potential costs and benefits of such contracts and shall approve a contract only upon a  
84 finding that it is a cost effective mechanism for procuring low cost renewable energy on a long-  
85 term basis taking into account the factors outlined in this section.

86         The joint solicitations required under this section shall be coordinated among the electric  
87 distribution companies by the department of energy resources. If distribution companies are  
88 unable to agree on a winning bid under a solicitation under this section, the matter shall be  
89 submitted to the attorney general, in consultation with the department of energy resources and  
90 the department of public utilities, for a final, binding determination of the winning bid. The  
91 electric distribution companies shall each enter into a contract with the winning bidders for their  
92 apportioned share of the market products being purchased from the project. The apportioned  
93 share shall be calculated and based upon the total energy demand from all distribution customers  
94 in each service territory of the distribution companies.

95         Distribution companies shall not be required by any rule, regulation or order of the  
96 department of public utilities to enter into long-term contracts under this section that would, in  
97 the aggregate, exceed 4 per cent of the total energy demand from all distribution customers in the  
98 service territory of the distribution company.

99         An electric distribution company may elect to use any energy purchased under such  
100 contracts for resale to its customers, and may elect to retain RECs to meet the applicable annual  
101 RPS requirements under said section 11F of said chapter 25A. If the energy and RECs are not so

102 used, such companies shall sell such purchased energy into the wholesale spot market and shall  
103 sell such purchased RECs through a competitive bid process. Notwithstanding the previous  
104 sentence, the department of energy resources shall conduct periodic reviews to determine the  
105 impact on the energy and REC markets of the disposition of energy and RECs under this section  
106 and may issue reports recommending legislative changes if it determines that actions are being  
107 taken that will adversely affect the energy and REC markets.

108         If a distribution company sells the purchased energy into the wholesale spot market and  
109 auctions the RECs as described in the fifth paragraph, the distribution company shall net the cost  
110 of payments made to projects under the long-term contracts against the proceeds obtained from  
111 the sale of energy and RECs, and the difference shall be credited or charged to all distribution  
112 customers through a uniform fully reconciling annual factor in distribution rates, subject to  
113 review and approval of the department of public utilities. The reconciliation process shall be  
114 designed so that a distribution company recovers all costs incurred under such contracts. If the  
115 RPS requirements of said section 11F of said chapter 25A terminate, the obligation to continue  
116 periodic solicitations to enter into long-term contracts shall cease; provided however, that  
117 contracts already executed and approved by the department of public utilities shall remain in full  
118 force and effect.

119         This section shall not limit consideration of other contracts for RECs or power submitted  
120 by a distribution company for review and approval by the department of public utilities. If this  
121 section is subject to a judicial challenge, the department of public utilities may suspend the  
122 applicability of the challenged provision during the pendency of the judicial action until final  
123 resolution of the challenge and any appeals and shall issue such orders and take such other

124 actions as are necessary to ensure that the provisions that are not challenged are implemented  
125 expeditiously to achieve the public purposes of this section.

126 SECTION 3. (a) By no later than October 1, 2015, or after the department of public  
127 utilities issues an order under subsection (b), all distribution companies in the commonwealth, as  
128 defined in section 1 of chapter 164 of the General Laws, shall be required to jointly solicit from  
129 developers of clean energy generation sources, proposals to deliver an annual amount of  
130 electricity of not more than 18,900,000 MWh, via long-term contracts as designed in Section 4 or  
131 delivery commitment agreements in Section 5. The distribution companies shall solicit proposals  
132 simultaneously under Section 4 and Section 5. Such solicitations may be conducted jointly with  
133 utilities and/or procuring entities from other states in New England. If contracts are not executed  
134 up to 18,900,000 MWh the distribution companies are authorized to conduct solicitations in  
135 subsequent years until the target is met.

136 (b) The department of public utilities may require that the solicitation in subsection (a) be  
137 staggered and divided into two or more solicitations to occur within such time and of such size as  
138 the department orders provided that such staggered procurements are in the best interest of  
139 ratepayers. Prior to any solicitation under this section, the department shall issue an order  
140 making such determination.

141 (c) For the purposes of this act, clean energy generation shall mean, individually or  
142 collectively, Class I RPS eligible renewable energy generation as defined under section 11F of  
143 said chapter 25A or hydroelectric generation. Said clean energy generation shall represent  
144 incremental generation delivered into the ISO New England Control Area after June 1, 2014.  
145 Incremental generation shall be from sources built after 2003, however, any proposal submitted



146 under this act may include pre-2003 clean energy generation, up to a level necessary to firm and  
147 assure delivery of Class I resources under that proposal. All clean energy generation shall use  
148 appropriate unit-specific tracking to ensure the delivery of clean energy. Said clean energy  
149 generation shall use appropriate unit-specific tracking to ensure the delivery of clean energy.

150 SECTION 4. The distribution companies in the commonwealth shall solicit proposals,  
151 from developers of clean energy generation and, provided reasonable proposals have been  
152 received, may enter into additional cost-effective long-term contracts to facilitate the  
153 Commonwealth's clean energy goals and compliance with the statewide greenhouse gas  
154 emissions limits. The solicitation shall be composed of clean energy generation sources  
155 apportioned among the distribution companies under this act. The timetable and method for  
156 solicitation and execution of such contracts shall be proposed by the distribution companies in  
157 consultation with the department of energy resources and shall be subject to review and approval  
158 by the department of public utilities. The provisions of this section shall create authority to enter  
159 into long term contracts but shall not be construed to impose any mandates to enter into any such  
160 long term contracts.

161 For purposes of this act, a long-term contract shall be a contract with a clean energy  
162 generation source with a term of 15 to 25 years. A contract may have a term longer than 25 years  
163 if the department of public utilities finds that it would be cost-effective for ratepayers when  
164 compared to one or more contracts proposed for other generation resources with the same  
165 physical attributes but that have a term of no more than 25 years. In developing proposed long-  
166 term contracts, the distribution companies shall consider multiple contracting methods, including  
167 long-term contracts for renewable energy certificates, hereinafter referred to as RECs, for energy  
168 only, and for a combination of both RECs and energy only. This long-term contracting option

169 shall be separate and distinct from the distribution companies' obligation to meet applicable  
170 annual renewable portfolio standard, hereinafter referred to as RPS, requirements, under section  
171 11F of chapter 25A of the General Laws. The procurement of RECs under this act shall apply  
172 only to that portion attributable to Class I RPS-eligible renewable energy generation and shall  
173 not apply to hydroelectric generation sources larger than 30 MW contracted under this Act.

174         The distribution companies shall jointly select a reasonable method of soliciting  
175 proposals from clean energy generation developers using a competitive bidding process only,  
176 which may include one developed by a regional organization in coordination with other New  
177 England States. A distribution company may decline to consider contract proposals having terms  
178 and conditions that it determines would require the contract obligation to place an unreasonable  
179 burden on the distribution company's balance sheet, and may structure its contracts, pricing or  
180 administration of the products purchased to mitigate impacts on the balance sheet or income  
181 statement of the distribution company or its parent company, subject to the approval of the  
182 department of public utilities; provided, that such mitigation shall not increase costs to  
183 ratepayers. The distribution companies may propose a reasonable form of remuneration for  
184 entering into any long term contract that it files with the department of public utilities for  
185 approval and the department of public utilities may approve the proposal at the time of approving  
186 the long term contract, provided however that the department of public utilities shall provide for  
187 an annual remuneration for the contracting distribution companies equal to 2.75 per cent of the  
188 annual payments under the contract to compensate the company for accepting the financial  
189 obligation of long-term contracts associated with Class I RPS eligible renewable energy  
190 generation sources for up to four per cent of the annual load from all distribution customers in  
191 the service territories of the distribution companies. The distribution companies shall consult

192 with the department of energy resources and the Attorney General regarding the choice of  
193 contracting methods and solicitation methods. All proposed contracts shall be subject to the  
194 review and approval of the department of public utilities.

195         The department of public utilities shall adopt regulations consistent with this section and  
196 any applicable rules, orders and regulations established by the Federal Energy Regulatory  
197 Commission. The regulations shall: (a) allow clean energy generation developers to submit  
198 proposals for long-term contracts conforming to the contracting methods specified in the second  
199 paragraph; (b) require that contracts executed by the distribution companies are filed with, and  
200 approved by, the department of public utilities before they become effective; (c) encourage  
201 proposals from diverse energy sources (d) authorize the evaluation of combination proposals  
202 which allow for resource diversity; and (e) require that the clean energy generation sources under  
203 the proposal meet the following criteria: (1) any Class I RPS eligible renewable energy  
204 generation source must be qualified by the department of energy resources as eligible to  
205 participate in the RPS program under said section 11F of said chapter 25A, and to sell RECs  
206 under the program; and (2) be determined by the department of public utilities to: (i) provide  
207 enhanced electricity reliability within the commonwealth, including, where feasible, the ability to  
208 replace energy provided by retiring carbon emitting generation sources in the commonwealth;  
209 (ii) contribute to energy source diversity; (iii) be cost effective to Massachusetts electric  
210 ratepayers over the term of the contract; (iv) where feasible, create additional employment and  
211 economic development in the commonwealth; (v) contribute to greenhouse gas reductions  
212 pursuant to chapter 238 of the acts of 2008; (vi) demonstrate project viability through evidence  
213 including: (a) appropriate federal, state and local permits are substantially likely to be obtained  
214 (b) land rights have been or are substantially likely to be obtained, (c) corporate approvals for

215 contracts have been obtained, and (d) security payments have been posted; and (vii) demonstrate  
216 that the clean energy generations sources will be delivered to the ISO New England Control  
217 Area.

218 As part of its approval process, the department of public utilities shall consider the  
219 attorney general's recommendations, which shall be submitted to the department of public  
220 utilities within 45 days following the filing of such contracts with the department of public  
221 utilities. The department of public utilities shall consider both the potential costs and benefits of  
222 such contracts and shall approve a contract only upon a finding that it is a cost effective  
223 mechanism for procuring clean energy generation source(s) on a long-term basis taking into  
224 account the factors outlined in this act. The department of public utilities shall approve a contract  
225 upon a finding that it is likely to result in net ratepayer savings as compared to current and  
226 projected future costs associated with energy, RECs, or other obligations of the company over  
227 the course of the contract period.

228 Notwithstanding the provisions of this section, that portion of the electricity generation  
229 attributable to hydroelectric generation larger than 30 MW shall not be eligible to participate in  
230 the Commonwealth's RPS program under said section 11F of said chapter 25A.

231 For the purposes of subsection (a), the joint solicitation and evaluation of submitted  
232 proposals required under this act shall be coordinated among the distribution companies by the  
233 department of energy resources. The electric distribution companies may, but are not required to,  
234 select a winning bidder. However, if distribution companies are unable to agree on whether to  
235 select a winning bidder for a contract or cannot agree on a winning bid from the solicitations  
236 submitted under this act, the matter shall be submitted to the attorney general, for a final, binding

237 decision regarding the bids. The distribution companies may each enter into a contract with the  
238 winning bidders for their apportioned share of the market products being purchased from the  
239 project. The apportioned share shall be calculated and based upon the total energy demand from  
240 all distribution customers in each service territory of the distribution companies.

241 A distribution company may elect to use any energy purchased under such contracts for  
242 resale to its customers, and for that portion of the energy generation attributable to Class I RPS  
243 eligible renewable generation may elect to retain RECs to meet the applicable annual RPS  
244 requirements under said section 11F of said chapter 25A. If the energy and/or RECs are not so  
245 used, such companies shall sell such purchased energy into the wholesale spot market and/or  
246 shall sell such purchased RECs through a competitive bid process.

247 Notwithstanding the previous sentence, the department of energy resources shall conduct  
248 periodic reviews to determine the impact on the energy and REC markets of the disposition of  
249 energy and RECs under this act and may issue reports recommending legislative changes if it  
250 determines that actions are being taken that will adversely affect the energy and REC markets.

251 If a distribution company sells the purchased energy into the wholesale spot market and  
252 auctions the RECs as described in the eighth paragraph, the distribution company shall net the  
253 cost of payments made to projects under the long-term contracts against the proceeds obtained  
254 from the sale of energy and RECs, and the difference shall be credited or charged through the  
255 DBA as provided in Section 5, subject to review and approval of the department of public  
256 utilities.

257 SECTION 5. The electric distribution companies may enter into delivery commitment  
258 agreements with a clean energy generation suppliers for no more than 9,450,000 MWh in the

259 aggregate. Subject to said maximum MWh, the electric distribution companies may also  
260 combine long term contracts with delivery commitment agreements with clean energy generation  
261 suppliers from a solicitation. A delivery commitment agreement shall be an agreement:

262 (a) in which the clean energy generation supplier would commit to deliver its output into  
263 the electric energy market operated by ISO New England, subject to the rules governing that  
264 market as approved by the federal energy regulatory commission, for a designated number of  
265 megawatt-hours per year during designated periods. Such output shall be from clean energy  
266 generation, as defined in Section 3;

267 (b) in which the clean energy generation supplier would retain complete discretion,  
268 subject to the applicable market rules and regulatory requirements, regarding (1) the prices at  
269 which it offers to supply electric energy and other electricity products into the ISO New England  
270 Control area; (2) which electricity products to supply, as long as it satisfies the minimum  
271 delivery commitment in clause (a) above, and (3) the purchasers in the ISO New England  
272 Control area to which it supplies those products;

273 (c) in which clean energy generation supplier would be entitled to retain all revenue  
274 received for the sale of its output, subject to the obligation to pay liquidated damages as specified  
275 in clause (e) below;

276 (d) in which the clean energy generation supplier's delivery commitment would be  
277 contingent upon a transmission line being constructed, maintained, and placed under the  
278 operational control of ISO New England that adds sufficient capacity to the ISO New England  
279 transmission system to enable the delivery into the New England market of the electric energy  
280 comprising the supplier's delivery commitment, pursuant to an appropriate ISO New England

281 transmission tariff regulated by the federal energy regulatory commission that charges the annual  
282 transmission costs to the appropriate entities in the participating New England states; the  
283 foregoing shall not preclude a clean energy generation supplier from relying upon a FERC-  
284 approved merchant transmission line to meet its delivery commitment;

285 (e) in which the supplier would be obligated, in the event it fails to meet its delivery  
286 commitment in any designated period, to pay liquidated damages to the electric distribution  
287 company, which in turn shall be returned to ratepayers, in an amount agreed to by the parties,  
288 taking into account, among all other relevant factors, the transmission charges incurred by the  
289 electric distribution company relating to the transmission line described in clause (d) above; and

290 (f) that is accepted or approved, as may be required by applicable law, by the federal  
291 energy regulatory commission.

292 Any delivery commitment agreement entered into by the electric distribution companies  
293 pursuant to this section, either individually or jointly, shall be subject to the review and approval  
294 of the department of public utilities. The department of public utilities shall review the  
295 agreement to determine whether it is in the public interest. The department of public utilities  
296 shall consider, among any other factors the department of public utilities finds relevant under the  
297 public interest standard, whether the delivery commitment agreement is a reasonable and prudent  
298 means of meeting the environmental objectives of this Act to obtain delivery of clean energy  
299 generation.

300 The department of public utilities is hereby authorized to promulgate regulations to  
301 implement the provisions of this section, subject to the applicable rules, orders and regulations  
302 established by the federal energy regulatory commission.

303 SECTION 6. (a) As used in this section, the following terms shall have the following  
304 meanings:

305 “DBA”, a retail diversity benefits allocator authorized by the department of public  
306 utilities for each electric distribution company for the purpose of allocating and crediting  
307 financing benefits and allocating and recovering the costs of the clean energy procurement  
308 program under this section equitably across all customers of each electric distribution company.

309 (b) The costs incurred, including above-market costs, and any below-market financial  
310 benefits obtained by the electric distribution companies through the procurements under section  
311 3 or section 4 shall be recovered, funded, and credited, as applicable, through a DBA. Each  
312 electric distribution company shall reconcile its costs and revenues in accordance with this  
313 section separately from the other electric distribution companies.

314 (c) A DBA shall be applied by all electric distribution companies, as reviewed and  
315 approved by the department of public utilities for each electric distribution company. A DBA  
316 shall apply to all customers receiving any type of delivery service from the electric distribution  
317 company or otherwise remaining connected to the distribution system for service when a form of  
318 self-supply is not available. A DBA shall be designed to assure recovery of the costs equitably  
319 from all distribution customers across all rate classes in a manner that is not by-passable,  
320 regardless of whether the customer is purchasing commodity from basic service or a retail choice  
321 supplier, self-generating all or a portion of its own energy, receiving net metering credits, being  
322 served through third party owned distributed generation, or otherwise self-supplying.

323 The proceeds received from a DBA shall be held by the electric distribution company and  
324 credited to a DBA reconciliation account. Electric distribution companies shall be held harmless



325 through the proceeds of the DBA fund for any bad debt associated with collection of the DBA  
326 from either basic service customers or retail choice customers.

327 (d) Below-market revenue benefits and all costs incurred by each electric distribution  
328 companies under power purchase or other agreements approved by the department of public  
329 utilities under this section shall be credited and funded, as applicable, through the applicable  
330 DBA of each electric distribution company. Each electric distribution company shall account for  
331 its individually received revenue and individually incurred purchase costs.

332 (e) The department of public utilities shall develop an annual filing and rate process that  
333 establishes a DBA in advance of an applicable year using forecasts of costs and revenues. Such  
334 process shall include an annual reconciliation the actual and forecasted costs incurred by each  
335 electric distribution company against all the actual and forecasted revenues received by the  
336 electric distribution company that are obtained from the resale of the market products acquired in  
337 any power purchase or other agreements approved by the department of public utilities under this  
338 section, including an appropriate interest rate on positive and negative balances.

339 (f) Each electric distribution company shall make individual annual filings that reflect its  
340 own projected and actual costs and revenues. To the extent that there is a positive balance after  
341 the netting of costs against revenues, the balance shall be refunded to all electric distribution  
342 customers of the applicable electric distribution company through a DBA, applied as a credit  
343 against the total electric bill of each electric distribution customer, subject to the approval of the  
344 department of public utilities. To the extent that there is a negative balance after netting of costs  
345 against revenues, the negative balance shall be recovered from all electric distribution customers  
346 through a DBA, subject to the approval of the department of public utilities.

347 Such process shall be repeated for each year, or for the applicable reconciliation period if  
348 shorter than a year, as approved by the department of public utilities.

349 SECTION 7. This act, and the implementation thereof, shall be subject to any applicable  
350 rules, orders and regulations established by the federal energy regulatory commission. No  
351 approval order or regulation issued by the department of public utilities to implement this act  
352 shall constitute approval of any rate or charge collected or imposed by the clean energy  
353 generation supplier. Such order or regulation shall not affect in any way the obligation of any  
354 party to an agreement entered into with an electric distribution company pursuant to this act to  
355 file the agreement with the federal energy regulatory commission or to comply with any tariff or  
356 rule approved by the federal energy regulatory commission with respect to the sale or resale of  
357 electric energy in interstate commerce.

358 If this act is subject to a judicial challenge, the department of public utilities may suspend  
359 the applicability of the challenged provision during the pendency of the judicial action until final  
360 resolution of the challenge and any appeals and shall issue such orders and take such other  
361 actions as are necessary to ensure that the provisions that are not challenged are implemented  
362 expeditiously to achieve the public purposes of this act.

363 SECTION 8. Provided that an electric distribution company has entered into long-term  
364 contracts in compliance with sections 83 to 83B, inclusive, of chapter 169 of the acts of 2008, it  
365 shall not be required by regulation or order or by other agreement to enter into additional long-  
366 term contracts; provided, however, that an electric distribution company may execute such  
367 contracts voluntarily, subject to the approval of the department of public utilities, or under the  
368 other provisions of this act.

369 SECTION 9. Notwithstanding section 83B of chapter 169 of the acts of 2008, or any  
370 other general or special law to the contrary, the long-term contracting requirements set forth  
371 under said section 83B shall be reduced by the quantity of energy, from Class I RPS eligible  
372 renewable energy generation sources under contract with a distribution company as approved by  
373 the department of public utilities under section 3.

374 SECTION 10. The massachusetts clean energy center, in consultation with the  
375 department of energy resources and the office of coastal zone management, shall study how to  
376 best advance the development of wind generation opportunities off the shore of the  
377 commonwealth. The study shall include a plan that evaluates (a) the design, ownership interest,  
378 federal and state permitting, and financing; (b) existing state or federal programs available to  
379 assist in off shore wind development; and (c) the creation of new programs, grants, rate  
380 mechanisms, or other incentives to promote off shore wind development. The center shall  
381 present its findings, along with any proposed recommendations and plan of action, to the joint  
382 committee on telecommunications, utilities, and energy by December 31, 2015.