

Relative to municipal utilities

Ms. Candaras moves to amend the proposed amendment (Senate, No. 2200), by adding the following Section:

SECTION XX. Chapter 775 of the Acts of 1975 is hereby further amended by striking out section 6(a), as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 6(a). The corporation, and member and non-member cities and towns having municipal electric departments established under chapter one hundred and sixty-four of the General Laws or by a special act and other utilities, public or private, may enter into energy contracts including, without limiting the generality of the foregoing, contracts providing for the sale or purchase of energy or energy facilities, borrowing by members under a pooled loan program, planning, engineering, design, acquiring sites or options for sites and expenses preliminary or incidental to such facilities. Any such contract (i) may be for the life of a facility or other term or for an indefinite period, (ii) may provide for the payment of unconditional obligations imposed without regard to whether a facility is undertaken, completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a facility and (iii) may contain provisions for prepayment, non-unanimous amendment, arbitration, delegation and other matters deemed necessary or desirable to carry out its purposes. Any such contract may also provide, in the event of default by any party thereto in the performance of its obligations thereunder, for other parties to assume the obligations and succeed to the rights and interests of the defaulting party, pro rata or otherwise as may be agreed upon in the contract.

Relative to ratepayer credits

Ms. Candaras moves to amend the proposed draft (Senate, No. 2200), by adding the following Section:

SECTION XX. Chapter 164 of the General Laws is hereby amended by inserting after section 1K the following section:-

Section 1L: As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“catastrophic conditions”, severe weather conditions resulting in interruption of service to ten percent or more of a utility's customers, or a state of emergency declared by local, state, or federal government officials.

“normal conditions”, conditions other than catastrophic conditions.

“same-circuit repetitive interruption”, a grouping of more than 10 customers on a circuit who experience multiple interruptions under all conditions.

“interruption”, the full or partial loss of service to 1 or more customers for longer than 5 minutes.

“duration of the interruption”, the measure of time from the time the utility was notified or otherwise became aware of the loss of service.

Notwithstanding the provisions of Section 1K of Chapter 164, the department shall promulgate regulations to establish a credit of not less than \$25.00 to be awarded to each ratepayer, whereupon an investor-owned electric distribution, transmission or natural gas distribution company fails to restore service as follows:

- (a) within 120 hours after an interruption due to catastrophic conditions;
- (b) within 16 hours after an interruption that occurred during normal conditions; and
- (c) where there are more than 7 service interruptions in a 12-month period due to same circuit repetitive interruption.

The credit shall be credited during a single billing month within three months of the department's notification of violation or final adjudication after appeal pursuant to this section; provided, however, that companies may petition the department to distribute the credit over a period of more than a single billing

month if the credit exceeds \$10,000,000. The department may establish a schedule of credits dependent on the class of ratepayer, length of interruption, or frequency of interruption. The entire cost of the credit shall be assessed to the investor-owned electric distribution, transmission or natural gas distribution company that provides such service to the affected customer. The issuance of the credit shall be appealable to the department. The department shall review the amount of the credit on an annual basis. Such credits and assessments established by this section shall be implemented notwithstanding the maximum penalty in Section 1J of Chapter 164 of the General Laws or any other General or Special law to the contrary.

Net Metering

Mr. Wolf moves to amend the bill (Senate Bill 2200) in section 25, by striking out, in lines 329 to 331, the following words:-

“provided, that a cooperative corporation organized under section 136 that is comprised solely of municipalities or other governmental entities may assign generating capacity to municipalities or other governmental entities with the approval of the department”

and by inserting in place thereof the following words:-

“except that in the case of a cooperative corporation organized under section 136 that is comprised solely of member municipalities or other governmental entities, such cooperative corporation may act as host customer on behalf of those members which assign all or a portion of their eligible generating capacity to it, as long as the total generating capacity for which such cooperative corporation serves as host customer does not exceed the amount assigned”.

Discount Programs Study

Ms. Clark moves to amend the bill (Senate, No. 2200) by striking out section 34 and inserting in place thereof the following section:-

“SECTION 34. “The department of public utilities shall conduct a study into the financing of low-income electric and gas discount programs. The study shall identify the financing of the existing program at each electric and gas distribution company and shall include consideration of adopting a statewide mechanism for financing low-income discount programs. In addition, the study shall identify and make recommendations as to cost-saving efficiencies that increase accountability. The department shall submit a copy of the study to the clerks of the house of representatives and the senate who shall forward the copy of the study to the joint committee on telecommunications, utilities and energy by January 1, 2013.”

Tracker Management

Mr. Petruccelli moves to amend the bill (Senate, No. 2200) by inserting at the end of the bill the following new section: -

SECTION XX. Chapter 164 of the General Laws as most recently amended, is hereby further amended, by adding after Section 94 of said chapter the following section: -

Section 94B. With the exception of recovery of lost revenues incurred as a result of utility administered and department approved energy efficiency programs, the department shall not order or approve reconciliation mechanisms, or approve annual reconciliations based on a previously approved reconciliation mechanisms, on and after January 1, 2013 for any electric or gas company except upon a showing before the department, subject to notice and comment, that such an expense was exogenesis. Such a showing must include an analysis of the ability or inability of the company to manage, control or mitigate such a cost or costs as compared to comparable utilities in other states to manage or control a similar cost or costs, and the analysis must include a comparison with non-utility businesses having comparable revenues to manage, control or mitigate a similar cost or costs. Such showing shall be subject to an evidentiary proceeding. The department shall allow or order a reconciliation only after a finding based on the record that the company had no ability to control, manage or mitigate such a cost or costs.

Energy Efficiency

Mr. Petruccelli moves to amend the bill (Senate, No.2200) in section 4 by adding at the end thereof the following new sentence:-“To the extent that this pilot program reduces overall energy savings and thereby prevents the state's achieving projected energy savings and prevents program administrators from meeting approved program goals, such program goals shall be adjusted accordingly.”

Promoting Transparency in Electric Bills

Messrs. Knapik moves that the bill (Senate, No. 2200) be amended by inserting, after SECTION 43 the following new section:-

SECTION XX. Notwithstanding any general or special law, rule or regulation to the contrary, beginning July 1, 2012, all electric bills sent to retail and commercial customers by an electric or distribution company or competitive supplier shall include a separate line-item to reflect the rate charged for renewable energy generation, transmission, and distribution services contained in the total retail price. The department is hereby authorized and directed to determine whether any additional information shall be required to be disclosed on the bills and to promulgate rules and regulations to implement the provisions of this subsection. Rules and regulations relative to the appeals process for billing disputes or damage claims made by customers shall be published and distributed to customers as part of an education and outreach program.

Revising the Number of Potential Users for the Pilot

Mr. Knapik moves that the bill (Senate, No. 2200) be amended in SECTION 4, line 26, by striking out the phrase “5 largest electric users” and inserting in place thereof the following phrase: - “20 largest electric users”.

Program Funding for Pilot Users

Mr. Knapik moves that the bill (Senate, No. 2200) be amended in SECTION 4, by striking out, in lines 40, 41, and 42, the following sentence: "Customers opting to receive an accelerated rebate shall be ineligible for other energy efficiency program rebates under said section 21 during the period in which they participate in the pilot program".

Annual Rate Cap

Mr. Petruccelli moves to amend the bill (Senate, No. 2200), in section 17, by striking out the words “total distribution costs” in each reference in paragraph (10), and inserting in place thereof the following text:- “price for electricity and natural gas”; and by striking out the word “rate” in the first sentence of paragraph (10) after the words “into effect, approved”, and inserting in place thereof the following text:- “increase in the price of electricity or natural gas”; and

in section 17, the second sentence of paragraph (10) by deleting the language after the words “such increase,” and inserting in place thereof the following text:- “the department shall approve within its decision a phase-in of the ratepayer’s price increase for electricity or natural gas.”; in the third sentence of paragraph (10) by deleting the language “shall order the phase in upon a showing of the increased distribution costs of 15 percent or more, but the”; and by deleting the remainder of paragraph (10) after the words “phase in period” in the third sentence and inserting in place the following language “; provided, however, that if the amount of the increase approved by the department exceeds 15 percent, the balance of the full amount of the revenue increase as determined by the department shall be allowed into rates within the third calendar year in which the approved revenue increase would otherwise have gone into effect.”

Property Tax

Mr. Downing moves to amend the bill (Senate, No. 2200), by striking out section 14 and inserting in place thereof the following section:-

“SECTION 14. Said section 2B of said chapter 59, as so appearing, is hereby further amended by inserting after the word “public”, in line 37, the following words:- , to leases and licenses for renewable generation facilities, defined as eligible under subsection (c) of section 11F of chapter 25A, from which facilities not less than 50 per cent of the energy output is assigned to either the municipality in which the facility is located or to the governmental entity that owns the land on which the facility is located,”

and, in section 15, by inserting, in line 180, the following words:-

“, including multiple systems on the same property and on contiguous parcels under common ownership”

Anaerobic Digestion

Mr. Michael O. Moore, Mr. Rodrigues, Mr. Eldridge, Mr. Pacheco, Mr. Finegold, Mr. Brownsberger and Ms. Jehlen move to amend the bill (Senate, No. 2200) by inserting after section 20 the following 4 sections:-

“SECTION 20A. Section 138 of said chapter 164, as so appearing, is hereby amended by inserting after the definition of “Agriculture” the following definition:-“Anaerobic digestion net metering facility”, a facility for the production of electrical energy that uses biogas produced from a process of accelerated biodegradation of organic material to generate electricity and is interconnected to a distribution company.

SECTION 20B. The definition of “Class II net metering facility” in said section 138 of said chapter 164, as so appearing, is hereby amended by striking out, in line 37, the words “or wind net metering facility” and inserting in place thereof the following words:- wind net metering facility or anaerobic digestion net metering facility.

SECTION 20C. The definition of “Class III net metering facility” in said section 138 of said chapter 164, as so appearing, is hereby amended by striking out, in line 55, the words “or wind net metering facility” and inserting in place thereof the following words:- wind net metering facility or anaerobic digestion net metering facility.

SECTION 20D. The definition of “Class III net metering facility” in said section 138 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 60, the words “or wind net metering unit” and inserting in place thereof the following words:- wind net metering unit or anaerobic digestion net metering unit.”; and

by inserting after section 25 the following section:- “SECTION 25A: Said subsection (f) of said section 139 of said chapter 164, as so appearing, is hereby further amended by inserting

after the words “wind net metering facility”, in line 76, the following words:- or anaerobic digestion net metering facility.”.

Retention of Funds by Pilot Users

Mr. Petruccelli moves to amend the bill (Senate, No.2200) in SECTION 4 by inserting after the sentence that ends on line 40 the following:-

“And further provided, however, that a customer in the pilot program may at its option and with notice to the utility retain up to 50% of the accelerated rebate rather than paying it to the utility, subject to forfeiture of such funds by the customer to the utility if the customer fails to undertake and complete energy efficiency improvements by the end of the program period.”

Municipal Cost Recovery

Ms. Chang-Díaz of Boston moves to amend the bill by inserting the following section:-

SECTION XX. Section 1J of chapter 164 of the General Laws is hereby amended by adding the following paragraph:-

In the event that more than either (i) 20,000 customers or (ii) 0.8% of the total customers, whichever is fewer, of an electric utility are subjected to a continuous power interruption of 4 hours or more that results in the transmission of power at less than 50% of the standard voltage, or that results in the total loss of power transmission, the utility shall be responsible for reimbursing the affected municipality, county, or other unit of local government in which the power interruption has taken place for all emergency expenses, direct and contingent, incurred as a result of the interruption. A waiver of the requirements of this section may be granted by the department in instances in which the utility can show that the power interruption was a result of any one or more of the following causes:

- (1) Unpreventable damage due to weather events or conditions; or
- (2) Customer tampering; or
- (3) Unpreventable damage due to civil or international unrest, criminal mischief or animals; or
- (4) Damage to utility equipment or other actions by a party other than the utility, its employees, agents, or contractors.

Loss of revenue and expenses incurred in complying with this section may not be recovered from retail customers.

Implementation of Long Term Contracts

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 29 by striking the term "January1, 2013", in lines 363, 378 and 381, respectively, and replace it with the following term:- January 1, 2015.

Voluntary Solicitation Proposals for Long- Term Contracts

Mr. Donnelly moves to amend the proposed new text, Senate no. 2200, in Section 28 by inserting after the words "financing of renewable energy generation." the following new sentence:-
Distribution companies may also voluntarily solicit additional proposals during that time period.

Rate Market Flexibility

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 17 by inserting after the word "rate", in line 201, the following words:-; provided, however, that an increase of more than 7 ½ per cent may be allowed upon a showing of strict necessity and a finding by the department that the increase occurred despite best faith efforts to avoid such a result.

Reducing Risk in Long Term Contracts

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 29 by striking the term "15 to 20", in lines 374 and 375, and replacing it with the following :- 10 to 20.

Cost Transparency

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 32 by striking the words “unless said programs are separately itemized on a ratepayer’s bill”, in lines 485-486.

ENERGY POLICY AND ELECTRICITY COST REDUCTION COMMISSION

Mr. Tarr moves to amend the bill (Senate, No. 2200), by inserting, after Section 1, the following new Section:-

“SECTION 1A. Chapter 21A of the General Laws, as so appearing, is hereby amended by inserting after section 23, the following new section:-

Section 24. (a) There shall be within the office an energy policy and electricity cost reduction commission, which shall be an independent public entity not subject to the supervision and control of the office or any other executive office, department, commission, board, bureau, agency or political subdivision of the commonwealth. The commission shall promote public transparency regarding the effectiveness and economic cost of energy and electricity policies and programs implemented in the commonwealth. The commission shall be charged with researching and reviewing the economic and electricity cost implications of current and proposed energy and electricity policies in the commonwealth, as well as the impact these policies have on electricity reliability. The commission shall report to the legislature, as prescribed in this section, with comprehensive recommendations for reforms the commonwealth can implement to: (i) encourage business development and job creation, (ii) reduce the costs associated with energy programs funded, in whole or in part, by the commonwealth, particularly programs established pursuant to chapter 169 of the acts of 2008, (iii) reduce the cost of electricity for commercial, industrial, and residential customers, and (iv) increase electricity reliability.

(b) (1) The commission shall consist of 19 persons, as follows: the secretary of energy and environmental affairs and the secretary of housing and economic development, both of whom shall serve as the co-chairs; the attorney general; the inspector general; the commissioner of the department of energy resources or his designee; the chair of the department of public utilities or her designee; 1 person appointed by ISO-New England; 1 person appointed by associated industries of Massachusetts; 1 person appointed by the Massachusetts chapter of the national federation of independent business; 1 person appointed by the Massachusetts clean energy center; 4 persons who are experts in energy efficiency, 1 of whom shall be appointed by the speaker of the house, 1 of whom shall be appointed by the minority leader of the house, 1 of whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the minority leader of the senate; 5 persons appointed by the Governor, 1 of whom shall be a representative from organized labor, 1 of whom shall be a representative of a Massachusetts green business with 10 or fewer employees, 1 of whom shall be a representative of a Massachusetts green business with 10 or more employees, 1 of whom shall be a representative of an institution of higher education and who is also an expert in the structure of the regional wholesale electricity market, and 1 of whom shall be a representative of an institution of higher education and who is also an expert in energy efficiency.

(2) Members of the commission shall serve terms of 2 years and until their successors are appointed.

(3) Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term.

- (4) The chairs of the commission may designate on an annual basis 1 or more commission members as vice-chairs of the commission. The commission shall select any other officers it deems necessary.
- (5) The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.
- (6) The powers of the commission shall include, but not be limited to: (i) using voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered or needed; (ii) recommending policies and making recommendations to agencies and officers of the state and local subdivisions of government to effectuate the changes outlined in section (a); (iii) enacting by-laws for the commission's own governance; and (iv) holding regular public meetings, fact-finding hearings, and other public forums as the commission deems necessary.
- (7) The commission may request from all state agencies such information and assistance as the commission may require.
- (c) (1) The commission shall issue an annual report which shall include, at minimum an analysis of the economic cost, electricity cost, and implication for electricity reliability of: (i) implementing administrative, regulatory, and legislative rulemaking as it pertains to electricity and the structure of the wholesale electricity market and (ii) meeting legislative and administrative goals and requirements related to greenhouse gas reductions, energy efficiency, and renewable energy generation, particularly goals established pursuant to Chapter 169 of the Acts of 2008.

(2) In so doing, the commission shall at minimum research, evaluate, consider and report on: (i) the accuracy of metrics used to assess the success of ratepayer and taxpayer funded, in whole or in part, programs established pursuant to Chapter 169 of the Acts of 2008, (ii) the accuracy of metrics used to assess the cost effectiveness of ratepayer and taxpayer funded, in whole or in part, programs established pursuant to Chapter 169 of the Acts of 2008 (ii) the cost impact of the mandatory renewable energy charge and the energy efficiency charge, established pursuant to Section 19 and 20 of Chapter 25 of the General Laws, on commercial, industrial, and residential electric service customers, (iii) the effectiveness and necessity of incentives awarded to electric distribution and gas distribution companies pursuant to Chapter 169 of the Acts of 2008, (iv) the economic impact of residential, commercial and industrial construction requirements for green communities, established pursuant to section 10 of chapter 25A, on municipalities that qualify as a green community, (v) the electricity cost implications and associated economic impact of scheduled and projected investments in smart meter technology and transmission infrastructure, (vi) the electricity cost implications and associated economic impact of scheduled increases in demand resources, aggregate net metering capacity, and renewable energy capacity, specifically scheduled and projected installations of wind and solar capacity, (vii) the structure of the regional wholesale electricity market and its impact on retail electricity costs, and (viii) the overall impact of the Commonwealth's energy and electricity policies on economic growth in the Commonwealth, specifically net job creation and business development, establishment, and retention.

(d) (1) The commission shall consult with electric distribution companies, natural gas distribution companies, green businesses residing in the Commonwealth, and other

interested parties, providing at least one opportunity for public comment, as well as the public review of the commission's annual draft report prior to filing the report with the legislature.

(2) The commission shall convene its first meeting within 45 days of the passage of this Act and shall file its first report, along with any recommendations for legislative or regulatory reforms deemed necessary to effectuate the changes outlined in subsection (a), with the clerk of the house and the clerk of the senate, and with the house and senate chairs of the joint committee on telecommunications, utilities and energy, within 180 days of the commission's first meeting. All subsequent annual reports shall be filed by the commission no later than December 31 of each year.

(e) Joint committees of the general court and the house and senate committees on ways and means when reporting favorably on bills referred to them that will amend or modify the commonwealth's energy and electricity policies, shall include a review and evaluation conducted by the commission pursuant to this section.

(f) (1) Upon request of a joint standing committee of the general court having jurisdiction or the committee on ways and means of either branch, the commission on energy policy and electricity cost reduction shall conduct a review and evaluation of proposed amendments or modifications to the commonwealth's energy and electricity policies, in consultation with relevant state agencies, and shall report back to the joint standing committee or committee on ways and means within 90 days of the request.

(2) The commission's review and report on proposed changes shall include a detailed evaluation and explanation of the potential environmental and economic impacts of said changes on residents and businesses in the commonwealth, as well as the impact of said

changes on electricity reliability. In so doing, the report shall address, at minimum the impact of proposed changes on: (i) business development and retention in the commonwealth, (ii) net job creation, (iii) the costs associated with energy programs funded, in whole or in part, by the commonwealth, particularly programs established pursuant to chapter 169 of the acts of 2008, (iv) the cost of electricity for commercial, industrial, and residential customers, and (v) electricity reliability.

(3) No change in energy or electricity policy shall be implemented until such a review has been undertaken and a report filed with the legislature pursuant to this section.

(4) The party or organization on whose behalf the bill was filed shall provide the commission on energy policy and electricity cost containment with any economic cost, electricity cost, electricity reliability, or environmental impact data that they have. All interested parties supporting or opposing the bill shall provide the commission on energy policy and electricity cost containment with any information relevant to the commission's review.

Section 2. Notwithstanding any general or special law to the contrary the division of energy resources shall, not less than once every five years, complete a review of all renewable energy portfolio standards and issue a report detailing how those standards are impacting economic growth in the Commonwealth, specifically net job creation and business development, establishment, and retention. Said report shall be filed with the clerk of the house and clerk of the senate, and with the house and senate chairs of the joint committee on telecommunications, utilities and energy.”

Hydroelectric Power in Long Term Contracts

Mr. Tarr moves to amend the bill (Senate, No. 2200) by inserting in the first paragraph in Section 29, at the end thereof, the following sentence:- A distribution company shall be allowed to include hydroelectric power, regardless of whether that power is eligible under the renewable energy portfolio standard contained in section 11F of chapter 25A of the General Laws; provided, however that said hydroelectric power not otherwise applicable to section 11F of chapter 25A, shall not be used for the purpose of meeting annual RPS requirements under said section 11F of chapter 25A.

and further by striking, in lines 400 through 402, inclusive, the following “(2) be qualified by the department of energy resources as eligible to participate in the RPS program, under said section 11F of said chapter 25A, and to sell RECs under the program” and inserting in place thereof the following:-

“(2) notwithstanding hydroelectric power, be qualified by the department of energy resources as eligible to participate in the RPS program, under said section 11F of said chapter 25A, and to sell RECs under the program”.

Prudence in Long Term Contracts

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 29, by inserting in the first paragraph, at the end thereof, the following sentence:-

The department of energy resources, in conjunction with the department of public utilities, shall, prior to the solicitation or execution of any long-term contract to facilitate the financing of renewable energy generation provided for in the section, conduct a study on the capacity of the state and the region to meet the renewable energy goals of this section. The study shall include, but not be limited to, an analysis the amount of renewable energy that will be required to comply with this section and a comparison of how that increased requirement compares to currently available and identifiable renewable energy sources in the state and in the region. The study shall analyze the impact of the requirements of this section on the wind energy market, including but not limited to how much energy will need to be produced by wind mills, the capacity of the state and region to locate mills to meet that need, potential municipal resistance to meeting the siting needs, the potential siting would need to be done in state park land, and any legislative changes that may have to be undertaken to reach the energy requirement. The department of energy resources and the department of public utilities shall make the study conspicuously available on their website, submit notice of the completion the report to each distribution company required to comply with this section, and file said report with the clerks of the senate and house of representatives, who should forward a copy to the chairs and ranking members of the joint committee on telecommunications, utilities and energy.

Rate Payer Fairness

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 29 by inserting after the word "customers", in line 436, the following words:- at the contract price.

RENEWABLE PORTFOLIO STANDARDS

Mr. Tarr moves to amend the bill (Senate, No. 2200), by inserting, after Section 10, the following new Section:-

“SECTION 10A. Subsection (b) of section 11F of said chapter 25A, as so appearing, is hereby amended by striking, in line 35, the following words:- and (7)

Section 2. Subsection (c) of section 11F of said chapter 25A, as so appearing, is hereby amended by striking, in line 63, the number “25” and inserting in the place thereof the following number:-
30

Section 3. Subsection (c) of section 11F of said chapter 25A, as so appearing, is hereby amended by striking, in line 65, the number “25” and inserting the place thereof the following number:- 30

Section 4. Subsection (c) of section 11F of said chapter 25A, as so appearing, is hereby amended by inserting after “qualify;” in line 65, the following words:-

however, new facilities having a capacity greater than 30 megawatts shall qualify as Class I renewable energy generating sources as prescribed by the department pursuant to subsection (j)

Section 5. Subsection (c) of section 11F of said chapter 25A, as so appearing, is hereby amended by striking, in line 66, the following words:-

and (iii) no such facility shall involve pumped storage of water or construction of any new dam or water diversion structure constructed later than January 1, 1998;

Section 6. Subsection (d) of section 11F of said chapter 25A, as so appearing, is hereby amended by striking, in line 94, the following words:- pumped storage of water nor”

Mr. Tarr moves to further amend the bill by inserting, after Section 11, the following new Section:-

“SECTION 11A. Section 11F of said chapter 25A, as so appearing, is hereby amended by inserting, after subsection (i) the following new subsections:-

(j) The department shall adopt regulations allowing for each retail supplier, in satisfying its annual obligations under subsection (a), to provide a portion of the required minimum percentage of kilowatt-hours sales of energy generated by new renewable energy sources from energy generated by new hydroelectric facilities, or incremental new energy from increased capacity or efficiency improvements at existing hydroelectric facilities, having a capacity larger than 30 megawatts. The department may specify the maximum portion of the minimum percentage of kilowatt-hour sales from energy generated by new hydroelectric facilities having a capacity larger than 30 megawatts that satisfies a retail supplier’s annual obligations under subsection (a); provided, however, that the department shall specify the maximum portion as a percentage of the minimum percentage of kilowatt-hour sales from new renewable energy generating sources that shall encourage the incorporation of hydroelectric generation, from new facilities larger than 30 megawatts or existing facilities larger than 30 megawatts that have a new increased capacity, in the commonwealth’s renewable energy portfolio.

(k) No retail supplier shall be required to make alternative compliance payments pursuant to section 11F until the department has adopted regulations allowing for each retail supplier, in satisfying its annual obligations under subsection (a), to provide a portion of the required

minimum percentage of kilowatt-hours sales of energy generated by new renewable energy sources from energy generated by new hydroelectric facilities as prescribed in subsections (b), (c), (d), and (j).”

Energy Efficiency Pilot

Mr. Downing moves to amend the bill (Senate, No. 2200), in section 4, by striking out, in line 31 and 36, the word “department” and inserting in place thereof the following words:-
“EEAC criteria”

and, in section 4, by adding to the end thereof, the following sentence:- “Electric and gas distribution companies shall recalibrate their energy efficiency goals, as reviewed by the EEAC under subsection (d) of section 22 of chapter 25, to reflect the rebates provided to any customer electing to participate in this pilot program.

Preventing Rate Case Increases

Mr. Tarr moves to amend the bill (Senate, No. 2200) by inserting in Section 18, by inserting after the words “3 years”, in line 216, the following words:- in cases where the company proposes a rate increase, or not less frequently than every 6 years.

Improving Outdoor Lighting and Increasing Dark-Sky Visibility

Ms. Creem moves to amend S. 2200 by inserting the following new section at the end of the bill:-

SECTION XX. Chapter 85 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following 3 sections:-

Section 1.

As used in sections 38 and 39, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Direct light”, light emitted by a lamp, off a reflector, or through a refractor of a luminaire.

“Foot-candles”, lumens per square foot.

“Fully shielded luminaire”, a luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire's lowest light-emitting part, in its mounted form.

“Illuminance”, the luminous power incident per unit area of a surface, as measured in lux or foot-candles.

“Lamp”, the component of a luminaire that produces light.

“Light pollution”, exterior artificial light directed, reflected or scattered upward.

“Light trespass”, light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

“Lumen”, a standard unit of measurement of luminous flux.

“Luminaire”, a complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

“Lux”, lumens per square meter.

“Municipal funds”, bond revenues or money appropriated or allocated by the governing body of a town or city within the Commonwealth.

“Parking-lot lighting”, permanent outdoor luminaires specifically intended to illuminate unenclosed automotive vehicle parking areas.

“Part-night or midnight service”, a rate charged by a utility company to provide unmetered electricity for permanent outdoor luminaires that operate for only a portion of each night’s dusk-to-dawn cycle.

“Permanent outdoor luminaire”, a fixed luminaire that is outdoors and intended to be used for 7 days or longer.

“Roadway lighting”, permanent outdoor luminaires specifically intended to illuminate public roadways for automobiles.

“State funds”, bond revenues or money appropriated or allocated by the General Court.

Section 2.

(a) No state or municipal funds shall be used to install a new or replacement permanent outdoor luminaire unless the following conditions are met:

- (1) for roadway or parking-lot lighting; whether mounted to poles, buildings or other structures, the luminaire is fully shielded.
- (2) for building-mounted luminaires not intended for roadway or parking-lot lighting, the luminaire is fully shielded when the rated initial output of its lamp or lamps is greater than 3500 lumens.
- (3) for luminaires specifically intended to illuminate building facades, the luminaire is shielded to reduce glare, light trespass, and light pollution to the greatest extent possible when the rated initial output of its lamp or lamps is greater than 3500 lumens.
- (4) if a lighting recommendation or regulation applies, only the illuminance levels required for the intended purpose by these recommendations or regulations are used.
- (5) if no lighting recommendation or regulation applies, only the illuminance levels required for the intended purpose as defined in recognized standards, including, but not limited to, recommended practices adopted by the Illuminating Engineering Society (IES), are used;

(6) for roadway lighting unassociated with intersections of 2 or more streets or highways, the Department of Transportation has determined that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or informational signs, or other passive means; and minimization of glare, light pollution and light trespass, and minimization of non-renewable energy usage, must be considered.

(b) This section shall not apply:

(1) if a federal law, rule or regulation preempts state law;

(2) if the outdoor lighting fixture is used temporarily by emergency personnel requiring additional illumination for emergency procedures or temporarily used by repair personnel for road repair;

(3) to navigational lighting systems at airports and other lighting necessary for aircraft safety;

(4) to special events or situations that may require additional illumination, including, but not limited to, the illumination of historic structures, monuments, or flags; provided, however, that all such illumination shall be selected and installed to shield the lamp used from direct view to the greatest extent possible, and to minimize glare, light pollution and light trespass; or

(5) if a compelling and bona fide operational or safety need exists that cannot be addressed by any other method.

(c) No public utility company shall install or replace a permanent outdoor luminaire for roadway lighting or parking-lot lighting, if the cost of operating such luminaire is paid for by state or municipal funds, unless:

(1) the new or replacement luminaire is fully shielded;

(2) only the illuminance levels required for the intended purpose, as defined in recognized standards, including, but not limited to, recommended practices adopted by the Illuminating Engineering Society, are used; and

- (3) the luminaire is designed to maximize energy conservation and to minimize light pollution, glare and light trespass.
- (d) The department of energy resources, in consultation with the Department of Transportation, shall promulgate regulations to implement and enforce this section, including a system to ensure that the use of state or municipal funds complies with the requirements set forth herein.
- (e) No person shall install a new or replacement luminaire on a residential or commercial property in a manner that creates light trespass or glare on a public right of way sufficient to visually impair drivers of vehicles on the roadway.

Section 3.

a) The Department of Transportation shall:

- (1) review and update warranting and other criteria for roadway lighting, to comply with current standards, procedures and accepted best practices;
- (2) make a study of lighting operational costs, and develop recommendations on cost reduction through replacement of existing fixtures with lower-wattage, fully shielded luminaires, and by removal of unnecessary roadway lighting and installation of passive safety measures where possible;

SECTION 2. The department of public utilities shall, subject to its ratemaking authority, develop a rate for part-night or midnight service for unmetered roadway or parking-lot lighting to apply to each new electric utility rate case submitted after August 31, 2013.

SECTION 3. The Department of Transportation shall issue the first report of its findings and recommendations as required in Section 39 (a)(2) to the department of energy resources on or before August 31, 2013, and annually thereafter.

Cross Subsidy

Mr. Welch moves to amendment bill (Senate. No. 2200), by inserting after section 19 the following new section:-

“SECTION 19A. Chapter 164 of the General Laws is hereby amended by inserting, after section 94H, the following new section:-

Section 94I. By September 1, 2012, the department shall open a proceeding for each electricity company and by November 1, 2012 each electric company shall file with the department documentation and schedules in their respective proceedings, in such form as the department shall from time to time prescribe, showing current rates and revenue requirements by customer class. The department shall determine after notice and public comment whether such rates and revenue requirements are commensurate with the costs to provide distribution service to each customer class. If as a result of this determination one or more customer classes bear a disproportionate revenue requirement and rate structure in relation to its cost of service, the department shall order a reconciliation of the revenue requirement and rates by customer class to ensure that each class is charged its appropriate cost of service. Such reconciliation shall be gradual and based on the following schedule, provided however that the overall revenue for each electricity company shall not be increased or decreased as a result of the reconciliation. (1) If the disparity is five percent or less, the revenue requirement and resulting rates shall be incrementally changed over a twelve month period to eliminate the disparity. (2) If the disparity is more than five percent but less than ten percent, the revenue requirement and resulting rates shall be incrementally changed over a twenty-four month period to eliminate the disparity. (3) If the disparity is ten percent or more, the revenue requirement and resulting rates shall be incrementally changed over a thirty-six month period to eliminate the disparity. In all future electric company rate cases or other proceeding which may result in an increase or decrease of rates to a customer class, the department shall ensure that any rate change is based on and proportionate to each customer class and to the cost of service for each class, provided however that where any one class would receive a rate increase in excess of five percent the department may in its order initially reduce that rate and increase the rates of other classes on a proportional basis but, if such reduction is ordered, the same order shall include a reconciliation for all customer classes over time according to the above schedule to ultimately eliminate any disparities between cost of service, revenue requirements and rates for each customer class.

Exemption for municipal owned plants

Mr. Keenan moves that the bill be amended in Section 4 by adding the following sentence: “This subsection shall not apply to a service territory belonging to a municipally-owned lighting plant.”

Rate Increase Management

Mr. Welch moves to amend the bill (Senate, No. 2200), in section 17 by deleting the first sentence beginning on line 195 and inserting in place thereof the following sentence: -

(10) Notwithstanding section 94 or any other general or special law to the contrary, whenever the department makes a determination upon an application for a increase in rates paid by ratepayers under 220 CMR 5.00 et seq., including a rate increase as a product of a reconciliation or rate increase resulting from an earlier rate order, that individually or collectively result in an increase of 10% or greater in any one year above the distribution rates paid at the time of the application, reconciliation, deferral or a combination of such increases, either for all ratepayers or for an individual ratepayer class, the department shall allow for not more than a seven and one-half percent increase in the rates for the first calendar year in which the rates are to go into effect, and no more than a seven and one-half percent increase in any subsequent year in order to achieve the department approved revenue.

Renewable Energy Investment Commission

Mr. Welch moves to amend the bill (Senate, No. 2200) by inserting after section 35 the following section:-

SECTION 35A. There is hereby established a special renewable energy investment commission to consist of 2 members of the senate, 1 of whom shall be the senate chair for the joint committee on telecommunication and energy who shall serve as co-chair, and 1 of whom shall be appointed by the senate minority leader; 2 members of the house of representatives, 1 of whom shall be the house chair for the joint committee on telecommunication and energy who shall serve as co-chair, and 1 of whom shall be appointed by the house minority leader; 3 persons to be appointed by the governor, 1 of whom shall be a executive of an electric or distribution company, and 1 of whom shall be a representative of a consumer advocacy organization, and 1 of whom shall be nationally recognized renewable energy policy and financing professional based in the Commonwealth; and the commissioner the department of energy resources or a designee; the secretary of energy and environmental affairs or a designee; a representative of the Associated Industries of Massachusetts; a representative of the Massachusetts Competitive Partnership who shall serve as co-chair; a representative of Environment Northeast; a representative of the Massachusetts Clean Energy Center; a representative of the New England Independent System Operator; and a representative of the National Federation of Independent Businesses, for the purpose of making an investigation and study relative to the impact of chapter 164 of the acts of 1997, chapter 114 of the acts of 2008, chapter 169 of the acts of 2008, chapter 206 of the acts of 2008, chapter 298 of the acts of 2008, and Chapter 307 of the acts of 2008, collectively hereinafter referred to as “the energy acts,” and any and all substantive and technical

amendments to the energy acts, with regard to the energy acts collective and respective impact on residential and commercial rates through 2020, taking into account renewable energy initiatives existing in the states that geographically border the Commonwealth, including the cost of transmission required to transport renewable energy in order to meet the Commonwealth's renewable portfolio standard, and taking into account benefits including but not limited to the avoidance or reduction of greenhouse gases and other pollutants, energy reliability, security and diversification, and detriments including but not limited to the impact on ecologically sensitive areas, large unfragmented habitat blocks, priority or estimated habitats for plant and animal species listed pursuant to chapter 131A, populations of bird and bat species that are considered by the department of fish and game as being vulnerable to impacts from the operation of wind turbines, historic, cultural, or scenic or recreational areas of special federal or state significance, noise and public safety. The commission should illustrate and analyze the rate payer impact of introducing existing, large-scale hydro-electricity, generated within and outside the Commonwealth's borders, as a renewable resource qualified to meet the class 1 renewable portfolio standard requirement in the Commonwealth. The commission shall report the results of its investigation and study and its recommendations, if any, together with a detailed description and chart of the residential and commercial rate impact of acquiring electricity for renewable resources, including the relative impact on residential and commercial electricity and tax rates of state and federal renewable energy funding, grants and other incentive programs, including net metering relative to each service territory within the Commonwealth, and short and long term projections through 2020 of private sector investment in renewable energy generation facilities in the Commonwealth, along with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the senate and the house of representatives on or

before January 1, 2013. Members of the commission shall not receive compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission. The commission shall convene no later than 60 days after the effective date of this act.

Central Procurement Study

Mr. Pacheco and Ms. Jehlen move to amend the bill by striking out sections 1, 2, 11, 12, 30 and 40, and by inserting in place thereof the following new section:-

“SECTION 1. The department of energy resources shall conduct a study of the viability, fiscal impact, potential benefits, statutory and regulatory barriers and anticipated results of establishing a central procurement mechanism for long-term contracts with Class I renewable energy facilities pursuant to section 11F of chapter 25A, inclusive of associated transmission. The study shall consider how such a central procurement mechanism could be designed so as to cost-effectively facilitate the financing of sufficient new Class I renewable energy generating facilities to reduce or eliminate alternative compliance payments. The study shall be based on the best available technical, regulatory and economic analysis and specifically shall consider, but shall not be limited to, (a) whether the Massachusetts Clean Energy Technology Center, department of energy resources, or another state governmental, quasi-governmental or regional entity is best situated to serve as a central procurement authority, taking into account relative expertise, credit-worthiness and other relevant factors; (b) appropriate sources of funding to cover administrative and other costs; (c) program scope; (d) criteria by which contracts should be evaluated by the central procurement entity and by the department of public utilities; (e) protocols for contract administration, including the sale of energy or renewable energy certificates procured through contracts entered under the program; (f) contract duration, including contracts with a minimum duration of 20 years; (g) the extent to which electric transmission resources should be included in central procurements; and (h) whether or how any forecasting should be undertaken to assess potential need for central procurement of long-term contracts with Class I renewable energy facilities inclusive of transmission. The department shall

submit a copy of the study to the clerks of the house of representatives and the senate, who shall forward the copy of the study to the joint committee on telecommunications, utilities and energy by June 30, 2013.”

Net Metering Prudent Expansion

Mr. Tarr moves to amend the bill (Senate, No. 2200) in Section 23 by striking the it in its entirety and inserting in place thereof the following:-

Section 23. Subsection (f) of said section 139 of said chapter 164, as so appearing, is hereby amended by striking out, in line 68, the words “1 per cent of the distribution company’s peak load” and inserting in place thereof the following words:-

“3 per cent of the distribution company’s peak load; provided, however, that once 1 per cent of the distribution company’s peak load is exceeded any new net metering facility shall be reimbursed at the wholesale price unless the facility qualifies under subsection (h) of this section.

Clean Energy Performance Standard Study

Mr. Pacheco moves to amend the bill section 33 striking out, in line 489, the words “department of energy resources” and inserting in place thereof the following words:-“executive office of energy and environmental affairs”

and by inserting at the end thereof following words:- “The requirement to conduct a study shall not be construed as a limitation on the authority or obligation of the department of environmental protection to issue regulations pursuant to subsection (c) of section 3 of chapter 21N of the General Laws; nor shall the completion of the study be deemed to be a condition precedent to the issuance of such regulations.”

Stretch Energy Code

Mr. Rodrigues moves to amend the bill, (Senate, No. 2200) by inserting the following new sections:-

SECTION XX. Subsection (c) of section 10 of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out clause “(6)” and by inserting before clause “(5)” the following word:- “and”

SECTION XX. The first sentence of subsection (o) of section 94 of chapter 143 of the General Laws, as so appearing, is hereby amended by striking out all words after the phrase “state building code”

SECTION XX. Section 98 of said chapter 143, as so appearing, is hereby amended by inserting after the first sentence the following new sentence:- Such restrictive standards cannot apply to those provisions of the state building code that are based upon the International Energy Conservation Code.

Rebate Pilot Program

Mr. Wolf moves to amend the bill (Senate Bill 2200), in Section 4, by inserting after subsection (d) the following subsection:-

(e) “This voluntary accelerated rebate pilot program will not be available to customers in a utility service territory that are served by a program administrator which is a municipal aggregator operating an energy plan pursuant to section 134(b) of chapter 164.”

Commercial and Industrial Accelerated Rebate Program

Mr. Pacheco moves to amend the bill, in section 4, by striking out the words “Customers electing to participate shall be eligible for up to a 100 per cent rebate for qualified energy efficiency measures as determined by the department.” and inserting in place thereof the following words:-

“Customers electing to participate shall be eligible for financial support of up to a 100 per cent of the cost for qualified energy efficiency measures as determined by the program administrator.”

and by inserting after the word “department” in line 36 the following words:-

“and the applicable program administrator recognized by the department”

and by inserting after the words “provided, however, that up to 15 per cent of any accelerated rebate may be used for other improvements that” the following words:-

“are necessary to”

and by inserting before the word “department” in line 43 the following words:-

“applicable program administrator recognized by the”.

Energy Efficiency and Building Codes

Messrs. Pacheco, Brownsberger and Finegold move to amend the bill in section 6 by striking out, in line 48, the words “compliance with federal or state building or energy codes applicable to participants” and inserting in place thereof the following words:-

“customer incentives meant to encourage greater building energy efficiency where such prescribed efficiency level is equal to that required by the baseline state building energy code, provided that measures that exceed said code may be fully funded”.

RATE INCREASE MANAGEMENT

Mr. Tarr moves to amend the bill (Senate, No. 2200), in Section 17, by striking lines 195 through 201, inclusive, and inserting in place thereof the following:-

“(10) Notwithstanding section 94 or any other general or special law to the contrary, whenever the department makes a determination upon an application for an increase in rates paid by ratepayers under 220 CMR 5.00 et seq., including a rate increase as a result of a reconciliation or when such increases occur in conjunction with a rate increase resulting from an earlier rate order deferral, that results individually or collectively in an increase of 10 per cent or greater in one year above the distribution rates paid at the time of the application, reconciliation, deferral or a combination of such increases, either for all ratepayers or for an individual ratepayer class, the department shall allow for not more than a 7 ½ per cent increase in the rates for the first calendar year in which the rates are to go into effect, and no more than a 7 ½ per cent increase in any subsequent year in order to achieve the department approved revenue.”

TRACKER MANAGEMENT

Mr. Tarr moves to amend the bill (Senate, No. 2200), by inserting at the end thereof the following new Section:-

“SECTION __. Chapter 164 of the General Laws is hereby amended by inserting, after Section 94, the following new Section:-

Section 94A. With the exception of recovery of lost revenues incurred as a result of utility administered and department approved energy efficiency programs, the department shall not order or approve automatic reconciliation mechanisms, or approve annual reconciliations based on a previously approved reconciliation mechanism, on or after January 1, 2013 for any electric or gas company except upon a showing before the department, subject to notice and comment, that such an expense was exogenesis. Such a showing must include an analysis of the ability or inability of the company to manage, control or mitigate such a cost or costs as compared to comparable utilities in other states to manage or control a similar cost or costs, and the analysis must include a comparison with non-utility businesses having comparable revenues to manage, control or mitigate a similar cost or costs. Such showing shall be subject to an evidentiary proceeding. The department shall allow or order a reconciliation only after a finding based on the record that the company had no ability to control, manage or mitigate such a cost or costs.”

Long Term Contracting

Mr. Pacheco and Ms. Jehlen move to amend the bill in SECTION 29 by inserting after the second sentence, in section 83A, the following sentence:-

“The timetable and method for solicitation shall be designed to promote consistency with the objectives set forth in the third paragraph of this section, specifically including subsections (3)(i)-(iv); the department of public utilities may direct the distribution companies to propose and utilize methods for solicitation of long-term contracts under this section that are designed to meet one or more needs with respect to the objectives in subsections (3)(i)-(iv).”

and by striking out, in line 370, the words “This long-term contracting obligation” and inserting in place thereof the following words:- “The long-term contracting obligation under this section”

and by striking out, in line 400, the words “January 1, 2008” and inserting in place thereof the following words:- “January 1, 2013”

and by inserting, in line 402, after the words “and (3) be determined by the department of public utilities to”, the following words:- “provide, and strike a reasonable balance among, the following attributes”

and by striking out, in line 411, the words “low cost”.

Implementation of Existing Study

Mr. Tarr moves to amend the bill (Senate, No. 2200), in Section 29, by inserting at the end thereof the following:- “This section shall not take effect until such time that division of energy resources has completed a study to assess whether the long-term contracting requirements reasonably support the renewable energy goals of the commonwealth as required under section 83 of chapter 169 of the acts of 2008 and said study has been submitted to the Joint Committee on Telecommunications, Utilities and Energy. Said study shall include, but not be limited to, input from stakeholders in the energy sector.”

Clerk #43

Energy Performance Standard

Mr. Rodrigues moves to amend the bill, (Senate, No. 2200) by striking section 33.

Long term contracts for solar energy projects

Mr. Finegold moves to amend the bill (Senate, No. 2200) in section 29, in line 422, by striking out “; provided, that long-term contracts for distributed generation technology shall not be awarded to any technology eligible for solar renewable energy credits at the time of solicitation”.

On-Site Combined Heat and Power Facilities

Mr. Joyce moves that S. 2200 be amended by creating Section 20A with the following language, to be inserted following Section 20:

Section 20A. (1) Section 1 of Chapter 164 of the General Laws is hereby amended by striking the definition of "Distribution company" and inserting in place thereof the following:-

"Distribution company", a company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a distribution company shall not mean any entity which owns or operates plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986; and provided further that a distribution company shall not mean an On-Site Combined Heat and Power Facility.

(2). Said section 1 of Chapter 164 of the General Laws shall be further amended by striking the definition of "Electric company", and inserting in place thereof the following:-

"Electric company", a corporation organized under the laws of the commonwealth for the purpose of making by means of water power, steam power or otherwise and for selling, transmitting, distributing, transmitting and selling, or distributing and selling, electricity within the commonwealth, or authorized by special act so to do, even though subsequently authorized to make or sell gas; provided, however, that electric company shall not mean an alternative energy producer; provided further, that a distribution company shall not include an entity which owns or operates a plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and nonprofit educational institutions, and where such plant or equipment was in operation before January 1, 1986; and provided further, that electric company shall not mean a corporation only transmitting and selling, or only transmitting, electricity unless such corporation is affiliated with an electric company organized under the laws of the commonwealth for the purpose of distributing and selling, or distributing only, electricity within the commonwealth; provided further that an electric company shall not mean an On-Site Combined Heat and Power Facility.

(3). Said section 1 of Chapter 164 of the General Laws shall be further amended by inserting after the definition of "Non-renewable energy supply and resource development" the following new definition:-

"On-Site Combined Heat and Power Facility", a combined heat and power facility using equipment and services to produce and deliver electric and thermal energy to end use customers located on the property on which the facility is located or on property contiguous to the property on which the facility is located. The property of the end use customer shall be considered contiguous to the property on which the On-Site Combined Heat and Power Facility is located if

(i) said properties are geographically adjacent to one another, (ii) said properties are only separated by an easement, a public thoroughfare or a transportation or utility-owned right-of-way, or (iii) regardless of any intervening properties, public thoroughfares, or transportation or utility-owned rights-of-way, the end use customer is purchasing thermal energy produced by the On-Site Combined Heat and Power Facility, and said thermal energy is being utilized in an established application of thermal energy, including but not limited to, industrial or commercial heating or cooling.

(4). Section 1 of Chapter 164 of the General Laws shall be further amended by striking the definition of "Supplier" and inserting in place thereof the following:

"Supplier", a supplier of generation service to retail customers, including power marketers, brokers and marketing affiliates of distribution companies, except that neither an electric company nor an On-Site Combined Heat and Power Facility shall be considered a supplier.

(5). Section 142 of Chapter 164 of the General Laws shall be amended by adding "(a)" at the beginning thereof and inserting the following subsection (b) as follows:

(b) The owner of an On-Site Combined Heat and Power Facility may distribute and sell electric power at retail to end use customers located on the property on which the facility is located or on property contiguous to the property on which said facility is located. The Department shall promulgate regulations to ensure that the delivery of electric power from an On-Site Combined Heat and Power Facility to end use customers shall meet the same standards of reliability and safety as those that apply to the design, operation and maintenance of distribution facilities by a distribution company. The distribution company providing distribution service to the end use customers served by an On-Site Combined Heat and Power Facility shall provide non-discriminatory electric delivery services at the standard prevailing tariff rates applicable to such individual end use customers.

Ratepayer Protection

Mr. Timilty moves to amend the bill (S. 2200) in Section 17, in line 212, by adding after the words “year 2” the following:-

“When a residential or non-residential ratepayer is subject to an increase in total distribution costs and the ratepayer experienced 36 or more consecutive hours without service in the 12 months preceding the department’s approval of the rate increase, the ratepayer may file a petition within 30 days after the department approves the rate increase for a phase-in of the ratepayer’s distribution cost increase over a period of years. The department shall determine the phase-in schedule for such ratepayers; provided that the phase-in shall be for not less than 2 rate years; and provided further that no ratepayer shall be subject to any rate increase within 18 months of experiencing 36 consecutive hours without service.”

Energy Efficiency Funds Generated By Municipal Lighting Plants

Messrs. Eldridge and Keenan, Ms. Chandler, and Ms. Creem move to amend the bill (Senate, No. 2200), in Section 4, by inserting the following new subsection:-

(e) In addition to any other funding derived from sources internal or external to Municipal Lighting Plants, for purposes of funding energy efficiency and demand side management programs, said Municipal Lighting Plants programs shall be funded from (1) amounts generated by the such municipal lighting plants under the Forward Capacity Market program administered by ISO-NE, as defined in section 1 of chapter 164; and (2) cap and trade pollution control programs, including, but not limited to, and subject to section 22 of chapter 21A, amounts generated by the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative Memorandum of Understanding, as defined in subsection (a) of section 22 of chapter 21A, and the NOx Allowance Trading Program equal to the percentage of each municipal lighting plants electricity sales relative to total electricity sales statewide.

Electric and gas energy efficiency program funds received under this subsection shall be allocated to customer classes, in proportion to their contributions to those funds; provided, however, that at least 10 per cent of the amount expended for electric energy efficiency programs and at least 20 per cent of the amount expended for gas energy efficiency programs shall be spent on comprehensive low-income residential demand side management and education programs. Subsection (c) of Section 19 shall not apply to municipal lighting plants.

Emerging technologies

Mr. Downing moves to amend the bill (Senate, No. 2200), by striking out, in section 29, the fourth paragraph and inserting in place thereof the following paragraph:-

“Distribution companies shall not be obligated to enter into long-term contracts under this section that would, in the aggregate, exceed 4 per cent of the total energy demand from all distribution customers in the service territory of the distribution company. Ten per cent of the aggregate level of long term contracts shall be reserved for newly developed, small, emerging or diverse renewable energy distributed generation facilities, as determined by the department of energy resources, that are located within each distribution company’s service territory. Distributed generation projects shall have a nameplate capacity no larger than 6 megawatts, but shall not qualify as a class I, II or III net metering facility, as defined in section 138 of said chapter 164; provided, that long-term contracts for distributed generation technology shall not be awarded to any technology eligible for solar renewable energy credits at the time of solicitation. As long as the electric distribution company has entered into long-term contracts in compliance with this section, it shall not be required by regulation or order to enter into contracts with terms of more than 3 years in meeting its applicable annual RPS requirements under said section 11F of said chapter 25A, unless the department of public utilities finds that such contracts are in the best interest of customers; provided, however, that the electric distribution company may execute such contracts voluntarily, subject to the department of public utilities’ approval.”

Solar Project Long Term Contract Barriers Study

Mr. Petruccelli moves to amend the bill (Senate, No.2200) by striking SECTION 35 and inserting in place thereof the following:-

“SECTION 35. The department of energy resources shall study what legislative or regulatory steps would serve to reduce reliance on alternative compliance payments in meeting Class II renewable energy generating sources, as defined in section 11F of chapter 25A of the General Laws. The department of energy resources shall also conduct a study to identify legal and regulatory barriers for long term financing of solar projects and solar renewable energy certificates and such study shall include recommendations for removing such barriers. The department of energy resources shall report on both matters to the joint committee on telecommunications, utilities and energy its recommendations by January 1, 2013.”

BULK PROCUREMENT

Mr. Tarr moves to amend the bill (Senate, No. 2200), in Section 12, by inserting at the end thereof the following:-

“Prior to the implementation of this section, the department shall work in conjunction with the attorney general and the department of public utilities to study the implication of the requirements of this section. The study shall include, but not be limited to, a review of bulk procurement practices in other states, and shall also take into consideration any studies currently being conducted with regards to regional procurement. The study shall also identify potential problems and possible solutions prior to implementing such a policy in Massachusetts. The department shall file a report of its findings, along with any recommendations, to the chairs of the Joint Committee on Telecommunications, Utilities and Energy, the chairs of the House and Senate Committees on Ways and Means, the Clerk of the House and the Clerk of the Senate, no later than 120 days after the effective date of this act.”

Thermal RECs through the Alternative Energy Portfolio Standard

Mr. Finegold moves to amend the bill (Senate, No. 2200) by inserting after section 12 the following two sections:-

“SECTION 12A. Section 3 of chapter 25A of the General Laws, as so appearing, is hereby amended by inserting after the definition “State Agency,” the following new definition:-

“Useful thermal energy”, energy in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed.

SECTION 12B. Section 11F½ of chapter 25A of the General Laws, as so appearing, is hereby amended by striking, in line 21, the following: “or (6)” and inserting in place thereof the following:-

(6) any alternative energy development that generates useful thermal energy whereby one megawatt hour of alternative energy portfolio standard credit shall be earned for every 3,412,000 British thermal units of useful thermal energy produced; or (7)”.

Energy Performance Standard 2

Mr. Rodrigues moves to amend the bill, (Senate, No. 2200) by striking section 33 and inserting in place thereof the following new section:-

SECTION 33. The Emissions Reduction Committee is hereby established to conduct a study of the greenhouse gas emissions reduction potential and viability, fiscal impact, statutory and regulatory barriers and anticipated long-term results of establishing a clean energy performance standard consistent with the greenhouse gas emission reduction requirements of chapter 21N of the General Laws, including all interim greenhouse gas limits adopted by the secretary under said chapter 21N. The Committee shall consist of the Commissioner of the Department of Energy Resources or his designee, a person representing the Massachusetts AFL-CIO, a person representing Associated Industries of Massachusetts, a person representing the Clean Energy Council and a person representing the New England Power Generators Association. The Committee shall study to consider how such a clean energy performance standard could be designed so as to advance the deployment of electricity generation and storage technologies that have low or no greenhouse gas emissions and that are not eligible under sections 11F or 11F ½ of chapter 25A of the General Laws, nor eligible as part of any energy efficiency program under section 19 of chapter 25 of the General Laws. The study shall be based on the best available scientific, technical and economic analysis and specifically shall consider, but shall not be limited to, (a) market-based frameworks designed to encourage lower production of greenhouse gas emissions per megawatt-hour of electricity delivered; (b) mechanisms to make such a greenhouse gas emissions performance standard more stringent over time; (c) categories of low emissions or no emissions technologies that should be eligible under a clean energy performance standard, including but not limited to hydropower facilities having a nameplate capacity greater than 25 megawatts, large-capacity electric storage technologies, and related smart grid technologies that may enable achievement of the commonwealth's clean energy goals; (d) mechanisms for encouraging the displacement of electricity produced by generating facilities having high emissions of greenhouse gases per megawatt-hour of electricity delivered with lower-emissions resources; (e) the extent to which various types of low emissions and no emissions technologies have reached technological maturity and the associated degree of need,

or not, for incentives to encourage deployment on a commercial basis; (f) economic benefits and impacts for the commonwealth, including, but not limited to, electric ratepayer benefits and impacts as well as employment and other economic development opportunities over the short term and long term; (g) tracking mechanisms; (h) allowing tradability among suppliers, including distribution companies; (i) incentives for reducing criteria and hazardous pollutants coincident with reductions in greenhouse gas emissions; (j) eligibility criteria for electricity generation and storage technologies directed toward avoiding undue impacts on the environment or public welfare; and (k) policies adopted or considered by other jurisdictions, including other states, federal government entities or foreign nations, to advance objectives similar to those identified herein. The committee shall submit a copy of the study to the clerks of the house of representatives and the senate who shall forward the copy of the study to the joint committee on telecommunications, utilities and energy by January 1, 2013.

DPU Merger Authority

Mr. Downing moves to amend the bill (Senate, No. 2200), by striking out, in section 20, subsection (a) and inserting in place thereof the following subsection:-

(a) For purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Control”, the possession of the power, through direct or indirect ownership of a majority of the outstanding voting securities of a gas or electric company or of a holding company thereof, to direct or cause the direction of the management and policies of a gas or electric company or a holding company thereof or the ability to effect a change in the composition of its board of directors or otherwise; provided, however, that control shall not be considered to arise solely from a revocable proxy or consent given to a person in response to a public proxy or consent solicitation made under the applicable rules and regulations of the Securities Exchange Act of 1934 unless a participant in said solicitation has announced an intention to effect a merger or consolidation with, reorganization or other business combination or extraordinary transaction involving such gas or electric company or the holding company.

“Foreign electric company”, an electric company with a domicile, principal place of business, headquarters or place of incorporation outside of the commonwealth.

“Foreign gas company”, a gas company with a domicile, principal place of business, headquarters or place of incorporation outside of the commonwealth.

“Holding company”, any corporation, association, partnership, trust or similar organization, or person which, regardless of the locus of the domicile, principal place of business, headquarters, or place of incorporation of such entity, either alone or in conjunction and under an arrangement or understanding with 1 or more other corporations, associations, partnerships, trusts or similar organizations, or persons, directly or indirectly, controls, or seeks to acquire control over, and may cause costs to be allocated to a gas or electric company.

Net Metering

Mr. Tarr moves that the bill (Senate, No. 2200) by striking out sections 23 and 24 and inserting in place thereof the following section:-

SECTION 24. Said subsection (f) of said section 139 of said chapter 164, as so appearing, is further amended by adding the following sections:-

f) The aggregate capacity of net metering shall not exceed 2 per cent of the distribution company's peak load, except that for governmental entities, the aggregate capacity of net-metering shall not exceed 2 per cent of the distribution company's peak load. For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility's direct current rating at standard test conditions and the capacity of a wind net metering facility shall be the nameplate rating.

(h) 1) Net-metering is available for solar or wind systems that are less than or equal to 2 MWs as long as the system's estimated annual electricity generation on a site is less than or equal to the site's annual electric consumption as compared to the three (3) year average use on the site. 2) Projects that do not qualify for (1) above are eligible for net-metering if they have received confirmation from the host utility that an interconnection application for the project has been received and been considered to be complete as per the standard interconnection tariff by June 1, 2012.

Long Term Renewable Contracts

Mr. Petruccelli moves to amend the bill (Senate, No. 2200), in section 29, by striking out the number "1" in the second sentence of the paragraph starting "The department of public utilities", and inserting in place thereof the following text:- "4"; and by inserting in the second sentence of the paragraph starting "The department of public utilities", in the second sentence after the word "approval" the following text:- "; provided further that the department shall conduct an investigation of the appropriateness of the aforementioned annual remuneration in terms of fostering and achieving the goals set forth within this section, said investigation to be completed and a report filed with the legislature no later than December 31, 2013".

Hydro-Power Reactivation

Mr. Richard T. Moore moves to amend the bill (Senate, No. 2200) by inserting at the end thereof the following new section:-

SECTION X. The secretary of the executive office of energy and environmental affairs shall conduct an investigation and study into the process for reactivation of pre-existing hydroelectric power sites, including a review of all necessary permitting and approvals to determine whether and how said process can be expedited and streamlined. Said investigation shall include a determination of those permits necessary from federal, state and local agencies for the reactivation of a pre-existing site, and recommendations to streamline said process so as to allow for timely and cost-effective redevelopment. In the course of the investigation, the secretary shall convene, to the extent possible, those state and federal agencies responsible for permitting, and any entities that may have obtained, or pursued, permits for the reactivation of pre-existing hydroelectric power sites.

The secretary shall report his findings to the clerks of the senate and house of representatives, the chairs of the joint committee on environment, natural resources and agriculture, the chairs of the joint committee on telecommunication, utilities and energy by January 1, 2013.

Nuisance Poles

Mr. Richard T. Moore moves to amend the bill (Senate, No. 2200) by inserting at the end thereof the following new sections:-

SECTION X. Section 34B of chapter 164 of the general laws, as so appearing, is hereby amended by inserting at the end thereof the following:-

“Any company that does not complete the removal of existing poles within the timeframe provided shall be fined not more than five hundred dollars per day per pole during which the company fails to comply. The department shall promulgate regulations regarding the disposition of all revenue generated in conjunction with any levied fines.”

SECTION X. Section 21 of chapter 166 of the general laws, as so appearing, is hereby amended by inserting at the end thereof the following:-

“Any company that incommodes the public use of public ways, or endangers or interrupts navigation pursuant to this section, shall be fined not more than one thousand dollars per day per pole during which the company disrupts public ways. The department shall promulgate regulations regarding the disposition of all revenue generated in conjunction with any levied fines.”

Corrective Amendment

Clerk #58

Mr. Brewer moves to amend the bill (Senate, No. 2200), in section 7, by inserting after the words “line 118”, in line 51, the following words:- “, in each instance”; and

in section 31, by inserting after the words “Clause (2)”, in line 477, the following words:- “of subsection (a)”; and

in section 33, by inserting after the words “department of energy resources”, in line 489, the following words:- “, in consultation with the department of environmental protection,”; and

in section 34, by inserting after the word “low-income”, in lines 523 to 524 and 526, in each instance, the following word:- “discount”;and

in said section 34, by striking out, in line 530, the figure“2013” and inserting in place thereof the following figure:- “2014”.