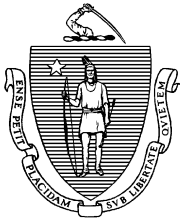


The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT TO GENERATE RENEWABLE ENERGY AND EFFICIENCY NOW

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to generate renewable energy and promote efficiency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience

*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. Chapter 7 of the General Laws is hereby amended by inserting after
2 section 9A the following section:-

3 Section 9B. If a motor vehicle owned and operated by the commonwealth is being
4 removed from service, it shall only be replaced with a vehicle that has above-average fuel
5 efficiency for a new vehicle within its size class as determined by the federal government. This
6 section shall not apply when the purchase of an above-average fuel efficiency vehicle within its
7 size class as determined by the federal government would result in an inability of the new
8 vehicle to perform its intended duties.

9 SECTION 2. Said chapter 7 is hereby further amended by inserting after section 39C the
10 following section:-

12 Section 39D. (a) The commissioner shall require a state agency that initiates the
13 construction of a new facility owned or operated by the commonwealth or a renovation of an
14 existing facility owned or operated by the commonwealth when the renovation costs exceed
15 \$25,000 and the replacement of systems, components or other building elements which affect
16 energy or water consumption to design and construct or renovate the facility in a manner that
17 minimizes the life-cycle cost of the facility by utilizing energy efficiency, water conservation or
18 renewable energy technologies under the following criteria:

19

20 (i) The state agency shall utilize alternate technologies when the life-cycle cost analysis
21 conducted under subsection (b) shows that such systems are economically feasible.

22

23 (ii) Each new educational facility, including any municipal educational facility financed
24 through the school building assistance program, for which the projected demand for hot water
25 exceeds 1,000 gallons per day or which operates a heated swimming pool, shall be constructed,
26 whenever economically and physically feasible, with a solar or other renewable energy system
27 as the primary energy source for the domestic hot water system or swimming pool of the
28 facility.

29

30 (iii) The division of capital asset management and maintenance or the state agency shall
31 in the design, construction, equipping and operation of such facilities, coordinate these efforts
32 with the division of energy resources in order to maximize reliance on, and the benefits of,
33 renewable energy research and investment activities promoted by this act;

34

35 (b) The division of capital asset management and maintenance or the state agency
36 initiating the construction or renovation of a facility subject to the requirements of subsection
37 (a) shall conduct a life-cycle cost analysis of any such facility's proposed design that evaluates

38 the short-term and long-term costs and the technical feasibility of using alternate technologies to
39 provide lighting, heat, water heating, air conditioning, refrigeration, gas or electricity. In
40 calculating life-cycle costs, a state agency shall include the value of avoiding carbon emissions,
41 creating renewable energy certificates and other environmental benefits created from the
42 utilization of alternate technologies, as applicable. This value shall be equal to the bid price of
43 the published market value of any such benefit and shall be assumed to increase at a rate of 5
44 per cent per year above the estimated rate of inflation for any year in which there are no
45 published values. To calculate life-cycle costs, a state agency shall use a discount rate equal to
46 the rate that the commonwealth's tax-exempt long-term bonds are yielding at the time of said
47 calculation and shall assume that the cost of fossil fuels and electricity will increase at the rate
48 of 3 per cent per year above the estimated rate of inflation.

49

50 (c) Notwithstanding section 28 of chapter 6C, the division of capital asset management
51 and maintenance may procure energy management services jointly with a state agency or a
52 building authority that is procuring energy or related services. The provisions of said section 28
53 shall apply to the extent feasible as determined by the commissioner of energy resources.

54

55 (d) For purposes of this section, the term "economically feasible" shall mean that the
56 cost of installing and operating an alternate technology is lower than the cost of installing and
57 operating the energy, energy-using technology or water-using technology that would otherwise
58 be installed, as determined by a life-cycle cost analysis.

59

60 (e) The division of capital asset management and maintenance or the state agency
61 initiating the construction or renovation of a facility subject to the requirements of subsection
62 (a) shall file with the division of capital asset management and maintenance and the division of
63 energy resources a report detailing the agency's compliance with this section with respect to
64 each such facility.

65

66 (f) The division of energy resources shall issue an annual report to the general court
67 detailing the compliance record of all state agencies with the construction and renovation
68 provisions of this section.

69

70 SECTION 3. Chapter 12 of the General Laws is hereby amended by striking out section
71 11E, as appearing in the 2006 Official Edition, and inserting in place thereof the following
72 section:-

73 Section 11E. (a) The attorney general may participate, appear and intervene in any
74 regulatory or judicial proceedings, federal or state, in which the interests of ratepayers in the
75 Commonwealth may be involved, including, but not limited to, a matter affecting utility
76 services rendered or involving the rates, charges, prices, tariffs or practices of an electric, gas,
77 generator, transmission, telephone, telegraph, voice over internet protocol, or cable or satellite
78 television company doing business in the commonwealth. The attorney general shall have
79 standing to intervene in all proceedings before the department of public utilities and department
80 of telecommunications and cable.

81 For the purpose of such participation, appearance or intervention, the attorney general
82 may expend such funds as may be appropriated therefor; provided, however, that such
83 expenditures shall not exceed annually the amount assessed against such electric, gas, telephone
84 and telegraph company under section 9A of chapter 6A notwithstanding the provisions of
85 subsection (b) of this section.

86 The attorney general shall not expend any of such funds if the expenditure shall conflict
87 with his duties under section 3.

88 (b) In the performance of his duties under this section, the attorney general may retain an
89 expert or a consultant to assist in proceedings before the department of public utilities or the
90 department of telecommunications and cable. If the attorney general determines that the services

91 of an expert or a consultant are necessary or desirable in a proceeding, he shall file notice in the
92 proceeding that includes the type of expert or consultant sought and the anticipated cost. Upon
93 the filing of such notice, the department before which the proceeding is commencing shall allow
94 full parties to the proceeding the opportunity to comment regarding the necessity or desirability
95 of such services. Absent a showing that the costs proposed are unnecessary for the attorney
96 general to represent ratepayer interests in the proceeding or that such costs are not reasonable or
97 proper, the use of the expert or consultant shall be approved. Costs for an expert or a consultant
98 shall not exceed \$150,000 per proceeding unless approved by the department based upon
99 exigent circumstances including complexity of the proceeding. All reasonable and proper
100 expenses, as defined in this section, shall be borne by the affected company in the proceeding
101 and shall be paid by such company at such times and in such manner as the attorney general
102 directs. All reasonable and proper costs and expenses, as defined in this section, shall be
103 recognized by the departments for all purposes as proper business expenses of the affected
104 company, subject to recovery through rates.

105

106 (c) The attorney general may request, orally or in writing, that any company subject to
107 the jurisdiction of the department of public utilities or the department of telecommunications
108 and cable respond to not more than 15 information requests, including sub-parts, per calendar
109 month regarding any matter related to the rates, charges, tariffs, books or service quality of the
110 company, and the company shall answer these information requests fully and completely in a
111 reasonably prompt manner, not to exceed 30 calendar days from the date of issuance, regarding
112 any issue that is within the jurisdiction of the department. Department rules pertaining to the
113 scope of questions and objections to discovery shall apply to any such request and the
114 department shall have jurisdiction to rule on any objections or motions to compel. If the
115 company fails to answer the information requests in a reasonably prompt manner, the attorney
116 general may request enforcement of this subsection from the department having jurisdiction
117 over the company.

118

119 SECTION 4. Chapter 13 of the General Laws is hereby amended by adding the
120 following section:-

121

122 Section 97A. (a) The board of registration of home inspectors, in consultation with the
123 state board of building regulations and standards, the division of energy resources and the
124 energy efficiency advisory council, shall develop requirements and promulgate regulations
125 establishing a home energy scoring program to require the scoring by licensed personnel at the
126 time of sale of single-family residential dwellings and multiple-family residential dwellings
127 with less than 5 dwelling units. The board of registration of home inspectors shall consider other
128 state home scoring programs and any relevant federal programs when developing requirements
129 and promulgating regulations.

130

131 (b) The board may include in its regulations any provisions requiring sellers of such
132 dwellings to provide potential buyers with copies of utility and, if applicable, oil heating bills
133 for the dwelling for charges incurred during the prior calendar year; and, if the seller has not
134 retained such bills, provisions requiring utilities and heating oil distributors to provide potential
135 sellers billing information for the dwelling for charges incurred during the prior calendar year.

136

137 (c) The regulations shall include provisions for training and licensure; standards of
138 professional and ethical conduct for home energy scoring personnel; and the establishment of
139 reasonable fees for the services of such personnel, to be paid by the sellers or purchasers of
140 dwellings.

141

142 (d) Before implementation of any regulations established under this section, the board of
143 registration of home inspectors shall report to the senate and house committees on ways and
144 means and the joint committees on consumer protection and professional licensure and

145 telecommunications, utilities and energy on the anticipated added costs, if any, to sellers or
146 purchasers of dwellings relating to the implementation of this section. The report shall include
147 any recommendations deemed appropriate by the board, including, but not limited to, any added
148 costs being absorbed by any existing energy efficiency program funding sources or
149 mechanisms.

150

151 SECTION 5. Chapter 21A of the General Laws is hereby amended by inserting after
152 section 18A the following section:-

153

154 Section 18B. (a) The secretary, in conjunction with the Massachusetts Technology Park
155 Corporation, shall create a green communities program for communities that wish to implement
156 a comprehensive program to reduce greenhouse gas emissions through the promotion of
157 efficiency, renewable energy, transportation and other strategies. The standards for being
158 designated a green community shall be developed and administered by the secretary. Said
159 standards shall include the creation and submission of a plan to leverage state, federal, local and
160 voluntary efforts to achieve measurable and defined environmental goals based on a checklist of
161 potential strategies.

162

163 (b) The Secretary shall direct program administrators of the energy efficiency funds and
164 the renewable energy trust fund to assist green communities in achieving their community based
165 goals and objectives; provided, however, that funds shall be allocated, and low-income
166 programs shall be implemented, under subsection (c) of section 19 of chapter 25. Such
167 assistance may include: (i) developing and delivering targeted services to these communities;
168 (ii) increasing the proportional share of resources available to a green community based on the
169 amount of leveraged funds that the community proposes to incorporate and deliver as part of its
170 plan and the availability of overall program funds; and (iii) making reasonable efforts to create
171 customized strategies in support of the community's plan. Said assistance to be provided to

172 green communities by administrators of energy efficiency funds and the renewable energy trust
173 fund shall not result in the expenditure, award, encumbrance or application of more than 20 per
174 cent of the funds expended, awarded, encumbered or otherwise applied by each administrator in
175 any single calendar year.

176

177 (c) The secretary shall expedite state funding for business development and
178 transportation development and siting approvals for projects associated with an approved green
179 communities plan.

180

181 (d) The secretary shall establish a program to support any community that institutes a
182 project to inventory and reduce its environmental footprint. This program shall include directed
183 support from the energy efficiency and renewable energy program administrators to provide a
184 checklist on how to conduct that environmental footprint analysis and provide input into
185 monitoring and calculating progress towards reducing that footprint.

186

187 (e) A green community may create and enforce building codes on both new and existing
188 facilities within its jurisdiction, which will assist green communities in achieving their
189 community based goals and objectives; provided, however, that a green community shall ensure
190 that loans are available to the owners of said facilities to perform projects required by such
191 building codes and that the cost of installing and operating such projects is lower than either, in
192 the case of existing facilities where no renovation is proposed, the cost of doing nothing, or, in
193 the case of existing facilities where a renovation is proposed or of new facilities, installing and
194 operating the energy or energy-using technology that would otherwise be installed, as
195 determined by a life-cycle cost analysis.

196

197 A green community may issue from time to time bonds or notes in order to finance all or
198 a portion of the costs of such projects authorized under this subsection. Notwithstanding any
199 provision of chapter 44 to the contrary, the maturities of any such bonds issued by a
200 municipality hereunder either shall be arranged so that for each issue the annual combined
201 payments of principal and interest payable in each year, commencing with the first year in
202 which a principal payment is required, shall be as nearly equal as practical in the opinion of the
203 municipal treasurer, or shall be arranged in accordance with a schedule providing for a more
204 rapid amortization of principal. The first payment of principal of each issue of bonds or of any
205 temporary notes issued in anticipation of the bonds shall be not later than 5 years from the
206 estimated date of commencement of regular operation of such projects financed thereby, as
207 determined by the municipal treasurer and the last payment of principal of the bonds shall be
208 not later than 25 years from the date of the bonds. Indebtedness incurred under this act shall not
209 be included in determining the limit of indebtedness of the municipality under section 10 of said
210 chapter 44 but, except as otherwise provided herein, shall be subject to the provisions of said
211 chapter 44. Green communities are hereby authorized to place tax liens on facilities within their
212 jurisdiction in order to facilitate loans for investments in such facilities which will assist green
213 communities in achieving their community based goals and objectives.

214

215 A green community may establish an enterprise fund under section 53F1/2 of chapter 44
216 for the receipt of all applicable revenues from the owners of such projects borrowing funds from
217 such green communities. Such receipts are to be used to pay costs of administering loans, and
218 to pay the principals and interest on any bonds or notes issued therefore.

219

220 SECTION 6. Said chapter 21A is hereby further amended by adding the following
221 section:-

222

223 Section 21. The secretary, in conjunction with the secretary of administration and
224 finance, may design and implement a competitive bidding process for the competitive
225 procurement of electric generation on behalf of any agency, executive office, department, board,
226 commission, bureau, division, or authority of the commonwealth procuring electricity from a
227 local distribution company via basic service under subsection (e) of section 1B of chapter 164,
228 as of July 1, 2008.

229

230 SECTION 7. Chapter 25 of the General Laws is hereby amended by inserting after
231 section 5D the following section:-

232

233 Section 5E. The department shall periodically audit all companies subject to its
234 jurisdiction, including, but not limited to, review of the following documents: (i) all financial
235 statements, the balance sheet, the income statement, the statement of cash flows, the statement
236 of retained earnings, the notes to the financial statements and the information in the annual
237 return to the department; (ii) documents concerning the reconciling mechanisms related to rates,
238 prices or charges, merger, acquisition or consolidation related costs and savings 3 years
239 following the merger, acquisition or consolidation; and (iii) documents concerning service
240 quality measure statistics and the service quality performance at least every 3 years or whenever
241 service quality penalties equal or exceed 50 per cent of the maximum. Upon written complaint
242 of the attorney general requesting an independent audit of any company subject to the
243 department's jurisdiction, the department shall commence a proceeding within 30 days of
244 receipt of the complaint for the purpose of ordering the requested audit in a reasonable time.
245 The results of any audit so ordered shall be filed promptly with the department and each audit
246 shall be paid for by the company that is the subject of the audit.

247

248 SECTION 8. Said chapter 25 is hereby further amended by inserting after section 18 the
249 following section:-

250

251 Section 18A. The commission may make an assessment against each steam distribution
252 company under the jurisdictional control of the department of public utilities. Each steam
253 distribution company shall annually report by March 31 its intrastate operating revenues for the
254 previous calendar year to said department. Said assessments shall be apportioned according to
255 steam distribution company intrastate operating revenues, to produce an annual amount not
256 greater than \$600,000, as shall be determined and certified annually by the commission as
257 sufficient to reimburse the commonwealth for funds appropriated by the general court for the
258 operation and general administration of the department and for the cost of fringe benefits as
259 established by the commissioner of administration under section 5D of chapter 29, including
260 group life and health insurance, retirement benefits, paid vacations, holidays and sick leave. In
261 no instance shall the individual steam distribution company assessment be made at a rate
262 exceeding 0.2 per cent of such company's intrastate operating revenues

263

264 Each company shall pay the amount assessed against it within 30 days after the date of
265 the notice of assessment from the department. Such assessments collected by the department
266 shall be credited to the General Fund. Any funds unexpended in any fiscal year for the purposes
267 for which such assessments were made shall be credited against the assessment to be made in
268 the following fiscal year and the assessment in the following fiscal year shall be reduced by any
269 such unexpended amount.

270

271 SECTION 9. Said chapter 25 is hereby further amended by striking out section 19, as
272 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

273

274 Section 19. (a) The department shall require a mandatory charge of 2.5 mills per
275 kilowatt-hour for all consumers, except those served by a municipal lighting plant, to fund

276 energy efficiency programs including, but not limited to, demand side management programs.
277 The programs shall be administered by the electric distribution companies and by municipal
278 aggregators with energy plans certified by the department under subsection (b) of chapter 164.
279 In addition to the aforementioned mandatory charge, such programs shall also be funded by
280 other funding as approved by the department after consideration of (i) the effect of any rate
281 increases on residential and commercial consumers, (ii) the availability of other funds, private
282 or public, utility administered or otherwise, that may be available for energy efficiency or
283 demand resources, and (iii) whether past programs have lowered the cost of electricity to
284 residential and commercial consumers. In authorizing such programs, the department shall
285 ensure that they are delivered in a cost-effective manner capturing all available efficiency
286 opportunities and utilizing competitive procurement processes to the fullest extent practicable.

287

288 (b) The department may approve and fund gas energy efficiency programs proposed by
289 gas distribution companies including, but not limited to, demand side management programs.
290 Energy efficiency activities eligible for funding under this section shall include geothermal
291 heating and cooling projects. Funding may be supplemented by funds authorized by section 21.
292 The programs shall be administered by the gas distribution companies. In authorizing such
293 programs, the department shall ensure that they are delivered in a cost-effective manner
294 capturing all available efficiency opportunities and utilizing competitive procurement processes
295 to the fullest extent practicable.

296

297 (c) Electric and gas energy efficiency program funds shall be allocated to customer
298 classes, including the low-income residential sub-class, in proportion to their contributions to
299 those funds; provided, however, that at least 10 per cent of the amount expended for electric
300 energy efficiency programs and at least 20 per cent of the amount expended for gas energy
301 efficiency programs shall be spent on comprehensive low-income residential demand-side
302 management and education programs; and provided further that for a period of 3 years
303 subsequent to the expiration of each electric or gas company efficiency plan or agreement in

304 place as of January 1, 2008, the amount and percentage allocated to the low-income residential
305 sub-class for the electric or gas company shall not be reduced from that provided under law,
306 guidelines and agreements in force as of January 1, 2008. The low-income residential demand-
307 side management and education programs shall be implemented through the low-income
308 weatherization and fuel assistance program network and shall be coordinated with all electric
309 and gas distribution companies in the commonwealth with the objective of standardizing
310 implementation. Such programs shall be screened only through cost-effectiveness testing which
311 compares the value of program benefits to society to program costs to ensure that programs are
312 designed to obtain energy savings and system benefits whose value is greater than the costs of
313 the programs.

314

315 SECTION 10. Section 20 of said chapter 25, as so appearing, is hereby amended by
316 inserting after the first sentence the following sentence:- Notwithstanding any general or
317 special law to the contrary, (i) a municipal lighting plant which does not supply generation
318 service outside its service territory or does not open its service territory to competition may elect
319 to assess and remit a mandatory charge per kilowatt-hour upon its electricity consumers on the
320 same terms and conditions as apply to the charge imposed on consumers residing in competitive
321 distribution service territories under this paragraph and subsection (c) of this section; provided,
322 however, that such an election by a municipal lighting plant shall be irrevocable and shall not be
323 deemed to be supplying generation service outside its service territory or opening its service
324 territory to competition at the retail level for the purposes of the first sentence of this paragraph;
325 and (ii) in administering the Massachusetts Renewable Energy Trust Fund the Massachusetts
326 Technology Park Corporation, doing business as the Massachusetts Technology Collaborative,
327 shall not make any grant or loan or provide any subsidy from said trust fund to any municipal
328 lighting plant or a consumer residing in the distribution service territory of such municipal
329 lighting plant unless: (A) a mandatory charge per kilowatt-hour is assessed against all
330 consumers residing in the distribution service territory and remitted to the collaborative under
331 the preceding sentence or clause (i); (B) the grant or subsidy is made under paragraph (2) of
332 subsection (f) of section 4E of chapter 40J; or (C) the board of directors of the collaborative, as
333 a condition precedent to any such grant, loan or subsidy, shall have determined and incorporated

334 into the minutes of its proceedings findings that: (1) any such grant, loan or subsidy is intended
335 for the principal purpose of generating public benefits for those consumers who reside in
336 distribution service territories in which the mandatory charge is so imposed and remitted and
337 will generate only incidental private benefits to the recipient or others residing in a distribution
338 service territory in which the mandatory charge is not so imposed and remitted; and (2) the facts
339 and circumstances associated with the recipient or the residence of the recipient provide unique
340 or extraordinary opportunities to advance the public purposes of the trust fund over those
341 opportunities available through grants or subsidies made to recipients residing in distribution
342 service territories in which such a mandatory charge is assessed and remitted.

343

344 SECTION 11. Said chapter 25 is hereby further amended by adding the following 2
345 sections:-

346

347 Section 21. (a) To mitigate capacity and energy costs for all customers, the department
348 shall ensure that, subject to subsection (c) of section 19, the commonwealth's electric and
349 natural gas resource needs shall first be met through all available energy efficiency and demand
350 reduction resources that are cost effective or less expensive than supply. The cost of supply
351 shall be determined by the department with consideration of the average cost of generation to all
352 customer classes over the previous 24 months.

353

354 (b)(1) On or before July 31, 2008, and every 3 years thereafter, the electric distribution
355 companies and municipal aggregators with certified efficiency plans shall jointly prepare an
356 electric efficiency investment plan and the natural gas distribution companies shall jointly
357 prepare a natural gas efficiency investment plan. Each plan shall provide for the acquisition of
358 all available energy efficiency and demand reduction resources that are cost effective or less
359 expensive than supply and shall be prepared in coordination with the energy efficiency advisory
360 council, established by section 22. Each plan shall provide for the acquisition, with the lowest

361 reasonable customer contribution, of all of the cost effective energy efficiency and demand
362 reduction resources that are available from municipalities and other governmental bodies.

363

364 (2) A plan shall include: (a) an assessment of the estimated lifetime cost, reliability and
365 magnitude of all available energy efficiency and demand reduction resources that are cost
366 effective or less expensive than supply; (b) the amount of demand resources, including
367 efficiency, conservation, demand response and load management, that are proposed to be
368 acquired under the plan and the basis for this determination; (c) the estimated energy cost
369 savings that the acquisition of such resources will provide to electricity and natural gas
370 consumers, including, but not limited to, reductions in capacity and energy costs and increases
371 in rate stability and affordability for low-income customers; (d) a description of programs,
372 which may include, but which shall not be limited to: (i) efficiency and load management
373 programs; (ii) demand response programs; (iii) programs for research, development and
374 commercialization of products or processes which are more energy-efficient than those
375 generally available; (iv) programs for development of markets for such products and processes,
376 including recommendations for new appliance and product efficiency standards; (v) programs
377 providing support for energy use assessment, real-time monitoring systems, engineering studies
378 and services related to new construction or major building renovation, including integration of
379 such assessments, systems, studies and services with building energy codes programs and
380 processes, or those regarding the development of high performance or sustainable buildings that
381 exceed code; (vi) programs for the design, manufacture, commercialization and purchase of
382 energy-efficient appliances and heating, air conditioning and lighting devices; (vii) program
383 planning and evaluation; (viii) programs providing commercial, industrial and institutional
384 customers with greater flexibility and control over demand side investments funded by the
385 programs at their facilities; and (ix) programs for public education regarding energy efficiency
386 and demand management; provided, however, that not more than 1 per cent of the fund shall be
387 expended for items (iii) and (iv) collectively, without authorization from the advisory council;
388 (e) a proposed mechanism which provides performance incentives to the companies based on
389 their success in meeting or exceeding the goals in the plan; (f) the budget that is needed to
390 support the programs; (g) a fully reconciling funding mechanism which may include, but which

391 shall not be limited to, the charge authorized by section 19; and (h) the estimated amount of
392 reduction in peak load that will be reduced from each option and any estimated economic
393 benefits for such projects including job retention, job growth or economic development.

394

395 (3) A plan shall include data showing the percentage of all monies collected that will be
396 used for direct consumer benefit, such as incentives and technical assistance to carry out the
397 provisions of the plan. With the approval of the advisory council, the plan may also include a
398 mechanism to prioritize to projects that have substantial benefits in reducing peak load,
399 reducing the energy consumption or costs of municipalities or other governmental bodies, or
400 have economic development, job creation or job retention benefits.

401

402 (4) (i) Each electric and natural gas plan shall be in effect for 3 years.

403

404 (ii) A program included in the plan shall be screened through cost-effectiveness testing
405 which compares the value of program benefits to the program costs to ensure that the program is
406 designed to obtain energy savings and system benefits with value greater than the costs of the
407 program. Program cost-effectiveness shall be reviewed periodically by the department and by
408 the council. If a program fails the cost-effectiveness test as part of the review process, it shall
409 either be modified to meet the test or shall be terminated.

410

411 (iii) A plan shall be submitted for approval and comment by the energy efficiency
412 advisory council on or before July 31, 2008, and every 3 years thereafter. The electric and
413 natural gas distribution companies and municipal aggregators shall provide any additional
414 information requested by the council that is relevant to the consideration of the plan. The
415 council shall review the plan and any additional information and shall submit its approval or
416 comments to the electric and natural gas distribution companies and municipal aggregators not

417 later than 3 months after submission of the plan. The electric and natural gas distribution
418 companies and municipal aggregators may make any changes or revisions to reflect the input of
419 the council.

420

421 (c)(1) The electric and natural gas distribution companies and municipal aggregators
422 shall submit their respective plans, together with the council's approval or comments and a
423 statement of any unresolved issues, to the department on or before October 31, 2008, and every
424 3 years thereafter. The department shall consider the plans and shall provide an opportunity for
425 interested parties to be heard in a public hearing.

426

427 (2) Not later than 90 days after submission of a plan, the department shall issue a
428 decision on the plan which ensures that the electric and natural gas distribution companies have
429 identified and shall capture all energy efficiency and demand reduction resources that are cost
430 effective or less expensive than supply and shall approve, modify and approve, or reject and
431 require the submission of the plan accordingly. The department shall approve a fully
432 reconciling funding mechanism for the approved plan and, in the case of municipal
433 aggregators, a fully reconciling funding mechanism that requires coordination between the
434 distribution company and municipal aggregator to ensure that program costs are collected,
435 allocated and distributed in a cost effective, fair and equitable manner. The department shall
436 determine the effectiveness of the plan on an annual basis.

437

438 (d) Upon determination by the department, an electric or natural gas distribution
439 company or municipal aggregator that fails to achieve the program savings goals described in
440 this section shall pay a penalty equal to the product of the assessment rate of \$0.05/kWh or
441 \$1/therm times the shortfall of kWhs saved or therms saved, as applicable, to Massachusetts
442 Technology Park Corporation within 60 days after the end of the year in which the shortfall
443 occurred. Said penalty shall not impact ratepayers. The assessment rate shall be adjusted each

444 year after 2008 and shall be equal to the previous year's rates adjusted up or down according to
445 the previous year's Consumer Price Index. The division of energy resources shall oversee the
446 use of said funds by the Massachusetts Technology Park Corporation so as to maximize the
447 amount of energy efficiency achieved.

448

449 Section 22. (a) The department shall appoint and convene an energy efficiency advisory
450 council which shall consist of not more than 12 members, including at least 1 person
451 representing each of the following: (i) residential consumers: (ii) the low-income weatherization
452 and fuel assistance program network, (iii) the environmental community, (iv) businesses,
453 including large C&I end-users, (v) the manufacturing industry, (vi) energy efficiency experts,
454 (vii) organized labor, (viii) the department of environmental protection, (ix) the attorney
455 general, (x) the executive office of housing and economic development and (xi) the division of
456 energy resources. Interested parties shall apply to the department for designation as members.
457 Members shall serve for terms of 5 years and may be reappointed. The commissioner of energy
458 resources shall serve as chair of the council. A representative of energy efficiency experts shall
459 not have a contractual relationship with any electric or natural gas distribution company,
460 electricity or natural gas provider, or any municipal aggregator. There shall be 1 non-voting,
461 ex-officio member from each of the electric and natural gas distribution utilities, 1 from each of
462 the approved municipal aggregators, 1 from the heating oil industry and 1 from the energy
463 efficiency businesses.

464

465 (b) The council, as part of the approval process by the department, shall seek to
466 maximize net economic benefits through energy efficiency and load management resources and
467 to achieve energy, capacity, climate, and environmental goals through a sustained and integrated
468 statewide energy efficiency effort. The council shall review and approve demand resource
469 program plans and budgets, work with program administrators in preparing energy resource
470 assessments, determine the economic, system reliability, climate and air quality benefits of
471 efficiency and load management resources, conduct and recommend relevant research, and

472 recommend long term efficiency and load management goals to maximize economic savings
473 and achieve environmental goals. Approval of efficiency and demand resource plans and
474 budgets shall require a two-thirds majority vote. The council, as part of its review of plans,
475 shall examine opportunities to offer joint programs providing similar efficiency measures that
476 save more than 1 fuel resource or to coordinate programs targeted at saving more than 1 fuel
477 resource. Any costs for joint programs shall be allocated equitably among the efficiency
478 programs.

479

480 (c) The council may retain expert consultants provided that such consultants shall not
481 have any contractual relationship with an electric or natural gas distribution company or
482 provider doing business in the Commonwealth or any affiliate of such company. The council
483 shall annually submit to the department a proposal regarding the level of funding required for
484 the retention of expert consultants and reasonable administrative costs. The proposal shall be
485 approved by the department either as submitted or as modified by the department. The
486 department shall allocate funds sufficient for these purposes from the natural gas and electric
487 efficiency funding authorized under section 19; provided, however, that such allocation shall
488 not exceed 1 per cent of such funding on an annual basis. The consultants used under this
489 section shall be experts in energy efficiency and shall be independent.

490

491 (d) The electric and natural gas distribution companies and municipal aggregators shall
492 provide quarterly reports to the council on the implementation of the plan. The reports shall
493 include a description of the each company's progress in implementing the plan, a summary of
494 the savings secured to date and such other information as the council shall determine. The
495 council shall provide an annual report to the department and the joint committee on
496 telecommunications, utilities and energy on the implementation of the plan which includes
497 descriptions of the programs, expenditures, cost-effectiveness and savings and other benefits
498 during the previous year.

499

500 SECTION 12. Section 3 of chapter 25A of the General Laws, as appearing in the 2006
501 Official Edition, is hereby amended by inserting after the definition of “Energy management
502 services” the following definition:-

503

504 “Energy savings”, a measured reduction in fuel, energy, operating or maintenance costs
505 resulting from the implementation of 1 or more energy conservation measures or projects,
506 provided that any payback analysis to evaluate the energy savings of a geothermal energy
507 system to provide heating, cooling or water heating over its expected lifespan shall include gas
508 and electric consumption savings, maintenance savings and shall use an average escalation rate
509 based on the most recent information for gas and electric rates compiled by the Energy
510 Information Administration of the United States Department of Energy.

511

512 SECTION 13. Section 5 of said chapter 25A, as so appearing, is hereby amended by
513 striking out, in lines 2 and 3, the words “energy, the joint committee on government
514 regulations”, and inserting in place thereof the following words:- telecommunications, utilities
515 and energy.

516

517 SECTION 14. Section 10 of said chapter 25A is hereby repealed.

518

519 SECTION 15. Section 11F of said chapter 25A, as so appearing, is hereby further
520 amended by striking out subsections (a) and (b) and inserting in place thereof the following 9
521 subsections:-

522

523 Section 11F. (a) The division of energy resources shall establish a renewable energy
524 portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the
525 commonwealth. By December 31, 1999, the division shall determine the actual percentage of
526 kilowatt-hours sales to end-use customers in the commonwealth which is derived from existing
527 renewable energy generating sources. Every retail supplier shall provide a minimum percentage
528 of kilowatt-hours sales to end-use customers in the commonwealth from new renewable energy
529 generating sources, according to the following schedule: (i) an additional 1 per cent of sales by
530 December 31, 2003, or one calendar year from the final day of the first month in which the
531 average cost of any renewable technology is found to be within 10 per cent of the overall
532 average spot-market price per kilowatt-hour for electricity in the commonwealth, whichever is
533 sooner; (ii) an additional one-half of 1 per cent of sales each year thereafter until December 31,
534 2009; and (iii) an additional 1 per cent of sales every year thereafter. For the purpose of this
535 subsection, a new renewable energy generating source is one that begins commercial operation
536 after December 31, 1997, or that represents an increase in generating capacity after December
537 31, 1997, at an existing facility. Commencing on January 1, 2008, such minimum percentage
538 requirement shall be known as the "Class I" renewable energy generating source requirement.

539

540 (b) For the purposes of this section, a renewable energy generating source is one which
541 generates electricity using any of the following: (i) solar photovoltaic or solar thermal electric
542 energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing
543 renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of conventional
544 municipal solid waste plant technology in commercial use; (vii) naturally flowing water and
545 hydroelectric; (viii) low-emission advanced biomass power conversion technologies using such
546 fuels such as: wood, by-products or waste from agricultural crops, food, or animals, energy
547 crops, biogas, liquid biofuel, including but not limited to biodiesel, or organic refuse-derived
548 fuel, or algae; and (ix) geothermal energy; provided, however, that after December 31, 1998, the
549 calculation of a percentage of kilowatt-hours sales to end-use customers in the commonwealth
550 from new renewable generating sources shall exclude clauses (vi) and (vii) herein. The division
551 may also consider any previously operational biomass facility retrofitted with advanced
552 conversion technologies as a renewable energy generating source. A renewable energy

553 generating source may be located behind the customer meter within the ISO NE control area
554 provided that the output is verified by an independent verification system participating in the
555 NEPOOL GIS accounting system and approved by the division.

556

557 (c) Commencing on January 1, 2008, such new renewable energy generating sources
558 meeting the requirements of this paragraph shall be known as Class I renewable energy
559 generating sources. For the purposes of this section, a Class I renewable energy generating
560 source is one that begins commercial operation after December 31, 1997, or the net increase
561 from incremental new generating capacity after December 31, 1997 at an existing facility,
562 where the facility generates electricity using any of the following: (i) solar photovoltaic or solar
563 thermal electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel
564 cells utilizing renewable fuels; (v) landfill gas; (vi) energy resulting from new hydroelectric
565 facilities regulated by FERC, or incremental energy from increased capacity or efficiency
566 improvements at existing hydroelectric facilities regulated by FERC, so long as such energy
567 from new facilities or from increased capacity and efficiency does not involve pumped storage
568 of water; provided that only energy from new facilities or from improvements at an existing
569 hydroelectric facility entering commercial operation after January 1, 1998, and only energy
570 from facilities up to 25 megawatts of capacity shall be considered new renewable energy; (vii)
571 low-emission, advanced biomass power conversion technologies, such as gasification using
572 fuels such as: wood, by-products or waste from agricultural crops, food, or animals, energy
573 crops, biogas, liquid biofuel, including but not limited to biodiesel, or organic refuse-derived
574 fuel, or algae; or (viii) geothermal energy. A Class I renewable generating source may be
575 located behind the customer meter within the ISO NE control area provided that the output is
576 verified by an independent verification system participating in the NEPOOL GIS accounting
577 system and approved by the division.

578

579 (d) Commencing on January 1, 2009, every retail electric supplier providing service
580 under contracts executed or extended on or after January 1, 2009, shall also provide a minimum

581 percentage of kilowatt-hour sales to end-use customers in the commonwealth from Class II
582 renewable energy generating sources. For the purposes of this section, a Class II renewable
583 energy generating source is one that began commercial operation before December 31, 1997
584 and generates electricity using any of the following: (i) solar photovoltaic or solar thermal
585 electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells
586 utilizing renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of
587 conventional municipal solid waste plant technology in commercial use; (vii) low-emission
588 biomass power conversion technologies, such as gasification using fuels such as: wood, by-
589 products or waste from agricultural crops, food, or animals, energy crops, biogas, liquid
590 biofuel, including but not limited to biodiesel, or organic refuse-derived fuel, or algae; or (viii)
591 geothermal energy. A Class II renewable generating source may be located behind the customer
592 meter within the ISO NE control area provided that the output is verified by an independent
593 verification system participating in the NEPOOL GIS accounting system and approved by the
594 division.

595

596 (e) On or before January 1, 2009, every retail supplier shall annually provide to end-use
597 customers in the commonwealth, generation attributes from Class II energy facilities in amount
598 approved by the division; provided, that the division may specify that a certain percentage of
599 these requirements must be met through energy generated from a specific technology or fuel
600 type in subsection (d). Such minimum percentage requirement for kilowatt-hour sales from
601 Class II energy generating sources may be adjusted by the division as necessary to promote the
602 continued operation of existing energy generating resources that meet the requirements of
603 subsection (d), and may be met through kilowatt-hour sales to end-use customers from any
604 energy generating source meeting the requirements of said subsection (d).

605

606 (f) After conducting administrative proceedings, the division may add technologies or
607 technology categories to any list; provided, however, that the following technologies shall not
608 be considered renewable energy supplies: coal, oil, natural gas, and nuclear power. The division

609 shall establish and maintain regulations allowing for a retail supplier to discharge its obligations
610 under this section by making an alternative compliance payment in an amount established by
611 the division for Class I and Class II renewable energy generating sources. The division shall
612 establish and maintain regulations outlining procedures by which each retail supplier shall
613 annually submit for the division's review a filing illustrating the retail supplier's compliance
614 with the requirements of this section.

615

616 (g) In satisfying its annual obligations under subsection (a), each retail supplier shall
617 provide a portion of the required minimum percentage of kilowatt-hours sales from new on-site
618 renewable energy generating sources located in the Commonwealth and having a power
619 production capacity of not more than 2 megawatts which began commercial operation after
620 December 31, 2007, including, but not limited to, behind the meter generation, and other similar
621 categories of generation determined by the division. The portion of the required minimum
622 percentage required to be supplied by such on-site renewable energy generating sources shall be
623 established by the division; provided, that the division may specify that a certain percentage of
624 these requirements must be met through energy generated from a specific technology or fuel
625 type.

626

627 (h) The division shall establish and maintain regulations allowing for a retail supplier to
628 discharge its obligations under subsection (g) by making an alternative compliance payment in
629 an amount established by the division; provided, that the division shall set on-site generation
630 alternative compliance payment rates at levels that will stimulate the development of new on-
631 site renewable energy generating sources.

632

633 (i) A municipal lighting plant shall be exempt from the obligations under this section so
634 long as and insofar as it is exempt from the requirements to allow competitive choice of
635 generation supply under section 47A of chapter 164.

636

637

638 SECTION 16. Said chapter 25A, as so appearing, is hereby further amended by adding
639 the following section:-

640

641 Section 11F1/2. (a) The division of energy resources shall establish an alternative
642 energy portfolio standard for all retail electricity suppliers selling electricity to end-use
643 customers in the commonwealth. Beginning January 1, 2009, every retail electric supplier
644 providing service under contracts executed or extended on or after January 1, 2009 shall provide
645 a minimum percentage of kilowatt-hour sales, as determined by the division, to end-use
646 customers in the commonwealth from alternative energy generating sources, and the division
647 shall annually thereafter determine the minimum percentage of kilowatt-hour sales to end-use
648 customers in the commonwealth which shall be derived from alternative energy generating
649 sources. For the purposes of this section, an alternative energy generating source is one which
650 generates electricity using any of the following: (i) coal gasification with capture and permanent
651 sequestration of carbon dioxide, provided that the fuel must be purchased by and contractually
652 transported to the alternative energy generating source in ISO-NE; (ii) combined heat and
653 power; (iii) flywheel energy storage; (iv) any facility which substitutes any portion of its fossil
654 fuel source with an equal to or greater portion of an alternative, paper-derived fuel source
655 approved by the department of environmental protection through a Beneficial Use
656 Determination for the production of heat or power; or (v) any other alternative energy
657 technology approved by the division under an administrative proceeding conducted under
658 chapter 30A; provided, however, that the following technologies shall not be considered
659 alternative energy supplies: coal, except when used in coal gasification, oil, natural gas, except
660 when used in coal gasification or combined heat and power, and nuclear power.

661

662 (b) The division shall set: (i) emission performance standards, including for carbon
663 dioxide, and fuel conversion efficiency standards for all technologies included in this section
664 consistent with the state's environmental goals, including but not limited to the reduction of
665 greenhouse gas emissions; and (ii) a net carbon dioxide emissions rate not to exceed the
666 emissions rate of a new natural gas combined cycle power plant which shall include all emission
667 related to thermal delivery, combustion, gasification, fuel processing, and sequestration,
668 whether or not such activities occur at the alternative generating source or at another location.
669 At least once every two years the division shall review and update, if necessary, all standards
670 for new alternative energy generating sources to require best available emissions control
671 technologies and all feasible efficiency improvements.

672

673 (c) The division shall promulgate regulations allowing for a retail supplier to discharge
674 its obligations under this section by making an alternative compliance payment in an amount
675 established by the division. Such regulations shall outline procedures by which each retail
676 supplier shall annually submit for the division's review a filing illustrating the retail supplier's
677 compliance with the requirements of this section.

678

679 (d) A municipal lighting plant shall be exempt from the obligations under this section so
680 long as and insofar as it is exempt from the requirements to allow competitive choice of
681 generation supply under section 47A of chapter 164.

682

683

684 SECTION 17. Said chapter 25A is hereby further amended by inserting after section 11I
685 the following section:-

686 Section 11J. (a) For the purposes of this section, the following words shall, unless the
687 context clearly requires otherwise, have the following meanings:-

688 “Generator”, the person that owns, directly or indirectly, the renewable energy
689 generating source that is located in a control area adjacent to the ISO New England Control
690 Area, but does not include any person under contract with the Generator to purchase the
691 renewable energy or renewable energy credits associated with such renewable energy.

692 “Person”, any individual, corporation, limited liability company, general or limited
693 partnership, trust, association or other entity.

694 (b) A renewable energy generating source as described in section 11F that is physically
695 located in or relocated to a control area adjacent to the ISO New England (“ISO-NE”) control
696 area may qualify as an eligible renewable energy generating source under section 11F, provided
697 however, that the renewable energy electricity generated by such renewable energy generating
698 source was delivered into and used by consumers within the ISO-NE control area.

699 (c) The delivery of renewable energy into the ISO-NE as described in subsection (b)
700 shall not qualify under the renewable portfolio standard, notwithstanding such delivery into the
701 ISO-NE control area, unless the Generator of such renewable energy: (i) initiates the import
702 transaction under a bilateral sales contract with a purchaser of the renewable energy located in
703 the ISO-NE control area by properly completing a North American Electric Reliability Council
704 tag from the Generator in the adjacent control area to either a node or zone in the ISO-NE
705 control area; and (ii) complies with all ISO-NE rules and regulations required to schedule and
706 deliver all of the renewable energy generating source’s energy or capacity into the ISO-NE
707 control area.

708 (d) During any period during which the generator, or any person under contract with the
709 Generator, is delivering renewable energy from the renewable energy generating source into the
710 ISO-NE control area, and notwithstanding compliance with subsection (b), the renewable
711 energy generated by the renewable energy generating source that is eligible for the renewable
712 portfolio standard shall be limited to the lesser of the following: (i) the renewable energy
713 actually generated by the renewable energy generating source; (ii) the renewable electricity
714 actually scheduled and delivered into the ISO-NE control area from the renewable energy

715 generating source in compliance with subsection (b); or (iii) the renewable energy generating
716 source's capacity rating adjusted for its outages.

717 (e) The renewable portfolio standard credit applicable to the eligible renewable energy
718 as determined under subsection (d) shall be reduced by any net exports of energy made during
719 the same period from the ISO-NE control area by (i) the person seeking renewable portfolio
720 credit for such renewable energy, (ii) any affiliate of such person, or (iii) any other person under
721 contract with such person to export energy from the ISO-NE control area and deliver such
722 energy directly or indirectly to such person. The requirements of this subsection shall not apply
723 to contracts executed prior to January 1, 2008.

724 (f) The division through duly adopted regulations may require such other requirements
725 as it deems appropriate consistent with this section.

726 SECTION 18. Section 12 of said chapter 25A, as appearing in the 2006 Official
727 Edition, is hereby amended by inserting after the word "on", in line 15, the following words:-
728 telecommunication, utilities and.

729 SECTION 19. Said chapter 25A is hereby further amended by adding the following 4
730 sections:-

731

732 Section 14. (a) As used in this section, the following words shall, unless the context
733 clearly requires otherwise, have the following meanings:-

734

735 "Building authority", the University of Massachusetts Building Authority, the
736 Southeastern Massachusetts University Building Authority, the University of Lowell Building
737 Authority or any other building authority which may be established for similar purposes.

738

739 “Eligible”, able to meet all requirements for offerors or bidders set forth in this section
740 and section 44D of chapter 149 and not debarred from bidding under section 44C of said
741 chapter 149 or any other applicable law, and who shall certify that he or she is able to furnish
742 labor that can work in harmony with all other elements of labor employed or to be employed on
743 the work.

744

745 “Governmental body”, a city, town, district, regional school district, county, or agency,
746 board, commission, authority, department or instrumentality of a city, town, district, regional
747 school district or county, and all other public agencies which are not a state agency or building
748 authority.

749

750 “Minor informalities”, minor deviations, insignificant mistakes, and matters of form
751 rather than substance of the proposal or contract document which can be waived or corrected
752 without prejudice to other offerors, potential offerors, or the public agency.

753

754 “Person”, any natural person, business, partnership, corporation, union, committee, club,
755 or other organization, entity or group of individuals.

756

757 “Public agency”, a department, agency, board, commission, authority, or other
758 instrumentality of the commonwealth or political subdivision of the commonwealth or 2 or
759 more subdivisions thereof.

760

761 “Responsible”, demonstrably possessing the skill, ability and integrity necessary to
762 faithfully perform the work called for by a particular contract, based upon a determination of

763 competent workmanship and financial soundness in accordance with this section and section
764 44D of chapter 149.

765

766 “Responsive offeror”, a person who has submitted a proposal which conforms in all
767 respects to the requests for proposals.

768

769 “Secretary” , the secretary of the executive office of energy and environmental affairs.

770

771 “State agency”, a state agency, board, bureau, department, division, section, or
772 commission of the commonwealth.

773

774 (b) A public agency may, in the manner provided by this section, contract for the
775 procurement of energy management services. Such contracts may include terms of 20 years or
776 less. The public agency shall solicit competitive sealed proposals through a request for
777 proposals. At least 1 week prior to soliciting proposals for a contract under this section, a public
778 agency shall notify the secretary in writing, in such form and including such information as the
779 secretary shall prescribe by regulation, of the agency’s intent to solicit proposals. Such
780 notification shall, at a minimum, include a complete copy of the agency’s request for proposals.
781 An acknowledgment of receipt, in such form and by including such information as the secretary
782 shall prescribe by regulation, shall be issued to the public agency upon successful compliance
783 with the requirements of this paragraph.

784

785 Requests for proposals for an energy management services contract to be entered into on
786 behalf of a state agency or a building authority, shall be developed jointly by the division of

787 capital asset management and maintenance and the using agency. Such proposals shall only be
788 solicited by the division of capital asset management and maintenance after the commissioner of
789 said division has given his prior written approval, and no contract for energy management
790 services shall be valid unless approved and signed by said commissioner. Said commissioner
791 may delegate to state agencies and building authorities the authority to enter into such contracts
792 with an estimated construction cost of less than \$1,000,000. Such delegation shall be in writing
793 from the commissioner to the regulating agency or building authority.

794

795 The request for proposals published by a public agency under this section shall include:
796 (i) the time and date for receipt of proposals and the address of the office to which the proposals
797 are to be delivered; (ii) a description of the services to be procured, including specific
798 requirements and all evaluation criteria that will be utilized by the state agency or building
799 authority; and (iii) proposed contract terms and conditions and an identification of such terms
800 and conditions which shall be deemed mandatory and nonnegotiable. The request for proposals
801 may incorporate documents by reference, provided that the request for proposals specifies
802 where prospective offerors may obtain the documents. The public agency shall make copies of
803 the request for proposals available to all persons on an equal basis. Public notice of the request
804 for proposals shall conform to the procedures set forth in subsection (1) of section 44J of
805 chapter 149. Proposals shall be opened publicly, in the presence of 2 or more witnesses, at the
806 time specified in the request for proposals, and shall be available for public inspection.

807

808 The provisions of sections 44A and 44B and sections 44E to 44H, inclusive, of chapter
809 149 shall not apply to contracts procured under this section. The provisions of section 44D of
810 said chapter 149 shall apply as appropriate to proposals submitted for contracts under this
811 section, and every such proposal shall be accompanied by: (i) a copy of a certificate of
812 eligibility issued by the commissioner of the division of capital asset management and
813 maintenance; and (ii) an update statement. The offeror's qualifications shall be evaluated by the
814 division of capital asset management and maintenance in a manner designated by the

815 commissioner of said division. If the public agency determines that any offeror is not
816 responsible or eligible, the public agency shall reject the offer and give written notice of such
817 action to the division of capital asset management and maintenance.

818

819 State agencies and building authorities shall award contracts under this section to the
820 lowest offeror demonstrably possessing the skill, ability, and integrity necessary to perform
821 faithfully energy management services.

822

823 Payments under a contract for energy management services may be based in whole or in
824 part on any cost savings attributable to a reduction in energy and water consumption due to the
825 contractor's performance or revenues gained due to the contractor's services which are aimed at
826 energy and water cost savings.

827

828 (c) The provisions of this subsection shall apply to a governmental body procuring
829 contracts under this section.

830

831 Unless no other manner of description suffices, and the governmental body so
832 determines in writing, setting forth the basis for the determination, all requirements shall be
833 written in a manner which describes the requirements to be met without having the effect of
834 exclusively requiring a proprietary supply or service or a procurement from a sole source.

835

836 Subject to a governmental body's authority to reject, in whole or in part, any and all
837 proposals, as provided in this section, a governmental body shall unconditionally accept a
838 proposal without alternation or correction, except as provided in this paragraph. An offeror may

839 correct, modify, or withdraw a proposal by written notice received in the office designated in
840 the request for proposals prior to the time and date set for opening the proposals. After proposal
841 opening, an offeror may not change any provisions of the proposal in a manner prejudicial to the
842 interests of the governmental body or fair competition. The governmental body shall waive
843 minor informalities or allow the offeror to correct them. If a mistake and the intended proposal
844 are clearly evident on the face of the proposal document, the governmental body shall correct
845 the mistake to reflect the intended correction and so notify the offeror in writing, and the offeror
846 may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly
847 evident on the face of the proposal but the intended correction is not similarly evident.

848

849 The governmental body shall evaluate each proposal and award each contract based
850 solely on the criteria set forth in the request for proposals. Such criteria shall include, but not be
851 limited to, all standards by which the governmental body will evaluate responsiveness,
852 responsibility, qualifications of the offeror, technical merit and cost to the governmental body.
853 The request for proposals shall specify the method for comparing proposals to determine the
854 proposal offering the lowest overall cost to the governmental body, taking into consideration
855 comprehensiveness of services, energy or water cost savings, costs to be paid by the
856 governmental body and revenues to be paid to the governmental body. If the governmental body
857 awards the contract to an offeror who did not submit the proposal offering the lowest overall
858 cost, the governmental body shall explain the reason for the award in writing.

859

860 The evaluations shall specify revision, if needed, to each proposal which should be
861 obtained by negotiation prior to awarding the contract to the offeror of the proposal. The
862 governmental body may condition an award on successful negotiation of the revisions specified
863 in the evaluation, and shall explain in writing the reasons for omitting any such revision from a
864 plan incorporated by reference in the contract.

865

866 (d) The public agency may cancel a request for proposals, or may reject in whole or in
867 part any and all proposals when the public agency determines that cancellation or rejection
868 serves the best interests of the public agency.

869

870 The public agency shall state in writing the reason for a cancellation or rejection. The
871 public agency shall promptly publish in the central register notice of the offeror awarded the
872 contract. The public agency shall, within 30 days, file a copy thereof with the secretary.

873

874 The secretary, in consultations with the commissioner of the division of capital asset
875 management and maintenance, shall promulgate regulations for the procurement of energy
876 management services under this section, provided however, that the commissioner of the
877 division of capital asset management and maintenance shall promulgate regulations for services
878 to be procured for state agencies and building authorities; and provided, further, that regulations
879 affecting the operations of housing authorities within the jurisdiction of the department of
880 housing and community development shall be promulgated in consultation with the director of
881 housing and community development. Such regulations may limit the scope of services
882 procured and the duration of contracts, and shall include any requirements that the secretary or
883 commissioner of the division of capital asset management and maintenance deems necessary to
884 promote prudent management of such contracts at the appropriate facilities. Such regulations
885 shall require the submission, at least annually, of such information as the secretary or
886 commissioner of the division of capital asset management and maintenance may deem
887 necessary in order to monitor the costs and benefits of contracts for energy management
888 services.

889

890 (e) The secretary shall enforce the requirements of this section and regulations
891 promulgated hereunder as they relate to public agencies except for state agencies and building
892 authorities and shall have all the necessary powers to require compliance therewith. The

893 commissioner of the division of capital asset management and maintenance shall enforce all
894 such regulations as they relate to state agencies and building authorities. Any order of the
895 secretary under this subsection shall be effective and may be enforced according to its terms,
896 and enforcement thereof shall not be suspended or stayed by the entry of an appeal. The
897 superior court for Suffolk county shall have jurisdiction over appeals of orders of the secretary
898 under this subsection, and shall also have jurisdiction upon application of said secretary to
899 enforce all orders of said secretary under this subsection. The burden of proof shall be upon the
900 appealing party to show that the order of said secretary is invalid. An aggrieved person shall not
901 be required to seek an order from said secretary as a condition precedent to seeking any other
902 remedy.

903

904 (f) Local authorities may amend existing energy service agreements to bring products
905 and services to additional buildings or assets in the community. The amendments may be
906 accomplished through negotiation with the energy service provider.

907 [\[CFK1\]](#)

908

909 Section 15. (a) Subject to the provisions of this section, a public agency as defined in
910 section 17 of this chapter may contract for energy conservation projects as defined in section 3
911 of this chapter, that have a total cost of \$100,000 or less, directly and without further
912 solicitation, with electric and gas utilities, their subcontractors and other providers of such
913 energy conservation projects authorized pursuant to sections 19 and 21 of chapter 25 and
914 section 11G of this chapter.

915

916 (b) For purposes of this section, "total project cost" shall mean all construction costs of
917 an energy conservation project, whether borne by the utility or public agency, including,
918 without limitation, the costs associated with equipment purchase and installation of said

919 equipment. Ancillary services provided at no cost by utilities, such as auditing and design, are
920 not considered part of project cost.

921

922 (c) Public agencies may pay for such energy conservation projects through additions to
923 their monthly utility bills.

924

925 (e) The provisions of sections 44A to 44M of chapter 149 and section 39M of chapter 30
926 shall not apply to contracts entered into under the authority of this section.

927

928 Section 16. (a) Notwithstanding sections 11C and 11I of this chapter, for solar
929 photovoltaic projects with a total project cost that is less than \$100,000, a public agency as
930 defined in this chapter may acquire photovoltaic panels and associated equipment for onsite use
931 of the energy generated by these panels from contracts procured by the Operational Services
932 Division pursuant to section 22 of chapter 7 and sections 51 and 52 of chapter 30.

933

934 (b) For purposes of this section, "total project cost" shall mean all construction costs of a
935 photovoltaic project, whether borne by the utility or public agency or other sources, including,
936 without limitation, the costs associated with equipment purchase and installation of said
937 equipment. Ancillary services provided at no cost, such as auditing and design, are not
938 considered part of project cost.

939

940 (c) The provisions of sections 44A to 44M of chapter 149 and section 39M of chapter 30
941 shall not apply to contracts entered into under the authority of this section.

942

943 Section 17. (a) As used in this section, the following words shall have the following
944 meanings:—

945

946 “Eligible”, able to meet all requirements for offerors or bidders set forth in this section
947 including, without limitation, being certified by the division of capital asset management and
948 maintenance as eligible to provide energy management systems services and not debarred from
949 bidding under section 44C of chapter 149 or any other applicable law.

950

951 “Energy conservation measures”, measures involving modifications or maintenance and
952 operating procedures of a building or facility and installations therein, which are designed to
953 reduce energy consumption in such building or facility, or the installation or, modification of an
954 installation in a building or facility which is primarily intended to reduce energy consumption.

955

956 “Energy conservation projects”, projects to promote energy conservation, including but
957 not limited to, energy conserving modification to windows and doors; caulking and weather-
958 stripping; insulation, automatic energy control systems; hot water systems; equipment required
959 to operate variable steam, hydraulic and ventilating systems; plant and distribution system
960 modifications including replacement of burners, furnaces or boilers; devices for modifying fuel
961 openings; electrical or mechanical furnace ignition systems; utility plant system conversions;
962 replacement or modification of lighting fixtures; energy recovery systems; and cogeneration
963 systems.

964

965 “Energy management services”, a program of services, including energy audits, energy
966 conservation measures, energy conservation projects, or a combination thereof, and building
967 maintenance and financing services, primarily intended to reduce the cost of energy and water

968 in operating 1 or more buildings, which may be paid for, in whole or in part, by cost savings
969 attributable to a reduction in energy and water consumption which result from the services.

970

971 “Energy management systems”, the design and installation of systems or maintenance
972 programs to conserve energy use within a building, including, without limitation, performance-
973 contracting energy saving projects; the installation or modification of new and existing
974 equipment which will reduce energy and water consumption associated with heating,
975 ventilation, and air conditioning system, lighting system, building envelope, domestic hot water
976 system, and other energy and water using devices; and the work associated with monitoring and
977 verifying project savings and the study or design of the subject work, whether performed
978 directly or managed through subcontractors.

979

980 “Energy savings”, a measured reduction in fuel, energy, operating or maintenance costs
981 resulting from the implementation of 1 or more energy management services when compared
982 with an established baseline of previous fuel, energy, operating or maintenance costs, including,
983 but not limited to, future capital replacement expenditures avoided as a result of equipment
984 installed or services performed under the guaranteed energy savings contract.

985

986 “Guaranteed energy savings contract”, a contract for the evaluation, recommendation or
987 implementation of 1 or more energy management services in which payments are based, in
988 whole or in part, on any energy savings attributable to the contract.

989

990 “Person”, any natural person, business, partnership, corporation, union, committee, club
991 or other organization, entity or group of individuals.

992

993 “Public agency”, a city, town or district, including a regional school district, or a
994 combination of 2 or more such cities, towns or districts, including regional school districts, or a
995 department, agency, board, commission, authority or other instrumentality of the
996 commonwealth.

997

998 “Qualified provider”, responsible and eligible person able to meet all requirements set
999 forth in this section, and not debarred from bidding under section 44C of chapter 149 or any
1000 other applicable law and experienced in the design, implementation and installation of energy
1001 savings measures.

1002

1003 “Request for qualifications”, a solicitation directed to qualified providers issued by a
1004 public agency to obtain energy management services under a guaranteed energy savings
1005 contract subject to this section. The request for qualifications shall include the following: (i) the
1006 name and address of the public agency; (ii) the name, address, title and phone number of a
1007 contact person; (iii) The date, time and place where qualifications must be received; (iv) a
1008 description of the services to be procured, including a facility profile with a detailed description
1009 of each building involved and accurate energy consumption data for the most recent 2 year
1010 period, stated objectives for the program, a list of building improvements to be considered or
1011 required and a statement as to whether the proposed improvements will generate sufficient
1012 energy savings to fund the full cost of the program; (v) The evaluation criteria for assessing the
1013 qualifications; (vi) a statement that the public agency may cancel the request for qualifications
1014 or may reject in whole or in part any and all energy savings measures when the public agency
1015 determines that cancellation or rejection serves the best interests of the public; (vii) any other
1016 stipulations and clarifications the public agency may require, which shall be clearly identified in
1017 the request for qualifications.

1018

1019 “Responsible”, demonstrably possessing the skill, ability and integrity necessary to
1020 faithfully perform the work called for by a particular contract, based upon a determination of
1021 competent workmanship and financial soundness in accordance with section 44D of chapter
1022 149.

1023

1024 (b) A public agency may choose to use this section in the procurement of energy
1025 management services as an alternative to the procedures set out in section 11C. Nothing in this
1026 section shall preclude any such agency from choosing to proceed thereafter under said section
1027 11C. A public agency may enter into a guaranteed energy savings contract in order to achieve
1028 energy savings at facilities in accordance with this section. All energy savings measures shall
1029 comply with current local, state and federal construction, and environmental codes and
1030 regulations. Prior to entering into a guaranteed energy savings contract, a public agency shall
1031 issue a request for qualifications. Public notice of the request for qualifications shall conform to
1032 the procedures set forth in subsection (1) of section 44J of chapter 149. At least 1 week before
1033 soliciting a request for qualifications for a guaranteed energy savings contract, a public agency
1034 shall notify the commissioner of energy resources in writing, in a form and including
1035 information as the commissioner of the division of capital asset management and maintenance
1036 shall prescribe by regulation, of the agency’s intent to solicit qualifications. The notification, at
1037 a minimum, shall include a copy of the agency’s request for qualifications. An acknowledgment
1038 of receipt, in a form and including information as the commissioner of the division of capital
1039 asset management and maintenance shall prescribe by regulation, shall be issued by the
1040 commissioner of energy resources to the public agency upon successful compliance with the
1041 requirements of this subsection. Qualifications shall be opened publicly, in the presence of 2 or
1042 more witnesses, at the time specified in the request for qualifications, and shall be available for
1043 public inspection. The provisions of sections 44A and 44B and sections 44E to 44H, inclusive,
1044 of said chapter 149 shall not apply to contracts procured under this section. Section 44D of said
1045 chapter 149 shall apply as appropriate to qualifications submitted for contracts under this
1046 section, and every such qualification shall be accompanied by (1) a copy of a certificate of
1047 eligibility issued by the commissioner of the division of capital asset management, and (2) by an
1048 update statement.

1049

1050 The public agency shall evaluate the qualified providers to determine which best meets
1051 the needs of the public agency by reviewing the following: (i) references of other energy
1052 savings contracts performed by the qualified providers; (ii) the certificate of eligibility and
1053 update statement provided by the qualified providers; (iii) the quality of the products proposed;
1054 (iv) the methodology of determining energy savings; (v) the general reputation and performance
1055 capabilities of the qualified providers; (vi) substantial conformity with the specifications and
1056 other conditions set forth in the request for qualifications; (vii) the time specified in the
1057 qualifications for the performance of the contract; and (viii) any other factors the public agency
1058 considers reasonable and appropriate, which factors shall be made a matter of record.

1059

1060 Respondents shall be evaluated only on the criteria set forth in the request for
1061 qualifications.

1062

1063 The public agency shall conduct discussions with, and may require public presentations
1064 by, each person who submitted qualifications in response to the request for qualifications
1065 regarding their qualifications, approach to the project and ability to furnish the required
1066 services. The public agency shall select in order of preference 3 such persons, unless fewer
1067 persons respond, they consider to be the most highly qualified to perform the required services.
1068 The agency may request, accept and consider proposals for the compensation to be paid under
1069 the contract only during competitive negotiations conducted under subsection (f).

1070

1071 (c) The public agency may cancel a request for qualifications, or may reject in whole or
1072 in part any and all proposals when the public agency determines that cancellation or rejection
1073 serves the best interests of the public agency. The public agency shall state in writing the reason
1074 for a cancellation or rejection.

1075

1076 (d) The public agency shall negotiate a contract with the most qualified person at
1077 compensation which the public agency determines is fair, competitive and reasonable. Should
1078 the public agency be unable to negotiate a satisfactory contract with the person considered to be
1079 the most qualified at a price the public agency determines to be fair, competitive and reasonable,
1080 negotiations with that person shall be formally terminated. The public agency shall then
1081 undertake negotiations with the second most qualified person. Failing accord with the second
1082 most qualified person, the public agency shall terminate those negotiations and then undertake
1083 negotiations with the third most qualified person. Should the public agency be unable to
1084 negotiate a satisfactory contract with any of the selected persons, the public agency may select
1085 additional qualified providers who responded to the request for qualifications, in the order of
1086 their competence and qualification, and continue negotiations in accordance with this subsection
1087 until either an agreement is reached or the public agency cancels the request for qualifications.

1088

1089 (e) The decision of a public agency as defined by section 1, regarding the selection of a
1090 qualified provider shall be final and not subject to appeal except on the grounds of fraud or
1091 collusion.

1092

1093 (f) The public agency shall provide public notice of the meeting at which it proposes to
1094 award the guaranteed energy savings contract, of the name of the parties to the proposed
1095 contract, and of the purpose of the contract. The public notice shall be made at least 10 days
1096 before the meeting. The public agency shall promptly publish in the central register notice of the
1097 award and those public agencies other than state agencies and building authorities shall notify
1098 the commissioner of energy resources of such award and provide a copy of the guaranteed
1099 energy savings contract.

1100

1101 (g) The guaranteed energy savings contract shall include a written guarantee of the
1102 qualified provider that either the amount of energy savings guaranteed will be achieved or the
1103 qualified provider shall reimburse the public agency for the shortfall amount. Methods for
1104 measurement and verification of guaranteed savings shall conform to the most recent standards
1105 established by the Federal Energy Management Program of the United States Department of
1106 Energy. The secretary shall enforce the requirements of this section and regulations
1107 promulgated hereunder as they relate to public agencies except for state agencies and building
1108 authorities and shall have all the necessary powers to require compliance therewith. The
1109 commissioner of the division of capital asset management and maintenance shall enforce the
1110 regulations as they relate to state agencies and building authorities. Any order of the
1111 commissioner of energy resources under this subsection shall be effective and may be enforced
1112 according to its terms, and enforcement thereof shall not be suspended or stayed by the entry of
1113 an appeal. The superior court for Suffolk County shall have jurisdiction over appeals of orders
1114 of the commissioner of energy resources under this subsection, and shall also have jurisdiction
1115 upon application of the commissioner to enforce all orders of the commissioner under this
1116 subsection. The burden of proof shall be upon the appealing party to show that the order of the
1117 commissioner is invalid. An aggrieved person shall not be required to seek an order from the
1118 commission as a condition precedent to seeking any other remedy. The value of guaranteed
1119 savings may represent either all, or part of annual payments at the discretion of the agency. The
1120 guaranteed energy savings contract term for providing a guarantee, measurement and
1121 verification, maintenance, service and installment or lease payments shall not exceed 20 years.
1122 The division of capital asset management and maintenance, in concurrence with the state
1123 inspector general, shall promulgate regulations for the procurement of energy management
1124 services, including establishing safeguards to be included in guaranteed energy savings
1125 contracts. The regulations shall require the submission, at least annually, of information as the
1126 commission of the division of capital asset management and maintenance and the state inspector
1127 general consider necessary in order to monitor the costs and benefits of contracts for energy
1128 management services.

1129

1130 (h) Payments under a contract for energy management services may be based in whole
1131 or in part on any cost savings attributable to a reduction in energy and water consumption due to
1132 the contractor's performance or revenues gained due to the contractor's services which are
1133 aimed at energy and water cost savings.

1134

1135 (i) Unless no other manner of description suffices, and the public agency so determines
1136 in writing, setting forth the basis for the determination, all requirements shall be written in a
1137 manner which describes the requirements to be met without having the effect of exclusively
1138 requiring a proprietary supply or service, or a procurement from a sole source.

1139

1140 (j) Before entering into a guaranteed energy savings contract, the public agency shall
1141 require the qualified provider to file with the public agency a payment or a performance bond
1142 relating to the installation of energy savings measures, in an amount equal to 100 per cent of the
1143 estimated contract value from a surety company licensed to do business in the commonwealth
1144 and whose name appears on United States Treasury Department Circular 570.

1145

1146 (k) Guaranteed energy savings contracts may extend beyond the fiscal year in which
1147 they become effective.

1148

1149 (l) Local authorities may amend existing energy service agreements to bring products
1150 and services to additional buildings or assets in the community. The amendments may be
1151 accomplished through negotiation with the energy service provider.

1152

1153 SECTION 20. Section 4A of chapter 40J of the General Laws, as appearing in the 2006
1154 Official Edition, is hereby amended by striking out, in line 7, the word “five” and inserting in
1155 place thereof the following figure:- 30.

1156

1157 SECTION 21. Section 4E of said chapter 40J, as so appearing, is hereby amended by
1158 inserting after the word “energy”, in line 18, the following words:- , energy conservation and
1159 efficiency.

1160

1161 SECTION 22. Said section 4E of said chapter 40J, as so appearing, is hereby further
1162 amended by inserting after the word “commonwealth”, in line 30, the following words:- ,
1163 together with such other initiatives and activities as the board may deem appropriate to further
1164 the public purposes of the fund.

1165

1166 SECTION 23. Said section 4E of said chapter 40J, as so appearing, is hereby further
1167 amended by striking out, in line 44, the words “and (vi)” and inserting in place thereof the
1168 following words:- (vi) the promotion of energy conservation and efficient energy use and the
1169 development and use of green buildings; and (vii).

1170

1171 SECTION 24. Said section 4E of said chapter 40J, as so appearing, is hereby further
1172 amended by inserting after the word “expend”, in line 48, the following words:- or pledge.

1173

1174 SECTION 25. Said section 4E of said chapter 40J is hereby further amended by
1175 inserting after the word “resources”, in line 74, the following words:- including, without
1176 limitation, the promotion and development of energy-efficient green buildings, particularly in

1177 affordable housing and schools and other public buildings. Notwithstanding this section, at
1178 least 10 per cent of the fund shall be dedicated to energy efficiency projects and activities
1179 undertaken by or for the benefit of cities and towns, including without limitation energy
1180 conservation measures and projects, procurement of energy management services, installation
1181 of energy management systems, adoption of demand side reduction initiatives, adoption of
1182 energy efficiency policies and the siting and construction of renewable energy, combined heat
1183 and power or distributed generation facilities on municipally owned properties. On an annual
1184 basis and in consultation with the low-income weatherization and fuel assistance program
1185 network, 10 per cent of the fund shall be dedicated to projects for the benefit of low-income
1186 ratepayers, including projects implemented by the low-income weatherization and fuel
1187 assistance program network.

1188

1189 [\[HSF2\]](#)SECTION 26. Said section 4E of said chapter 40J, as so appearing, is hereby
1190 further amended by striking out in lines 135 through 138 the words “low emission, advanced
1191 biomass power conversion technologies, such as gasification using such biomass fuels as wood,
1192 agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel”, and
1193 in inserting in place thereof the following:- low emission, advanced biomass power conversion
1194 technologies using fuels such as: wood, by-products or wastes from agricultural crops, food, or
1195 animals, energy crops, biogas, liquid biofuel, including but not limited to biodiesel, organic
1196 refuse-derived fuel, or algae; geothermal;

1197

1198 SECTION 27. Said section 4E of said chapter 40J, as so appearing, is hereby further
1199 amended by inserting after the word "engine", in line 146, the following words:- ; and provided
1200 further, that the board shall make grants, loans or other support from the fund, not to exceed a
1201 total of \$3,000,000 annually, for hydroelectric facilities, other than pumped storage facilities, in
1202 the Commonwealth constructed prior to December 31, 1997 for upgrades to increase the
1203 efficiency or capacity and to reduce any environmental impacts.

1204

1205 SECTION 28. Said section 4E of said chapter 40J, as so appearing, is hereby further
1206 amended by striking out subsection (i) and inserting in place thereof the following subsection:-

1207

1208 (i) The corporation shall be assisted in the implementation of this section by an
1209 oversight board consisting of not more than 15 individuals, which shall include 2 members to
1210 appointed by the speaker of the house, 2 members to be appointed by the president of the senate,
1211 the secretary of housing and economic development or a designee, the attorney general or a
1212 designee, the secretary of energy and environmental affairs or a designee, the chair of the
1213 department of public utilities, the executive director of the Massachusetts municipal association
1214 or a designee, and no more than 6 individuals appointed by the governor, from the
1215 recommendation submitted by the chair of the board relating to clause (i) of said section 4, with
1216 an interest in matters related to the general purpose and activities of the fund and the knowledge
1217 and experience in at least one of the following areas: electricity distribution, generation, supply,
1218 or power marketing; the concerns of commercial and industrial ratepayers; residential
1219 ratepayers, including low-income ratepayers; economics, financial or investment consulting
1220 expertise relative to the fund; regional environmental concerns; academic issues related to
1221 power generation, distribution or the development or commercialization of renewable energy
1222 sources; institutions of higher education; municipal or regional aggregation matters; and
1223 renewable and clean energy issues. The board shall consult with said oversight board in
1224 discharging its obligations under this section.

1225

1226 SECTION 29. Said section 4E of said chapter 40J, as so appearing, is hereby further
1227 amended by striking out subsection (k) and inserting in place thereof the following subsection:-

1228

1229 (k) Beginning with the fiscal year ending on June 30, 2009, on or by August 15th of
1230 each year, the board, in conjunction with the oversight board, shall annually submit to the
1231 governor, the joint committee on telecommunications, utilities and energy, and the house and

1232 senate committees on ways and means a report detailing the expenditure and investment of
1233 monies from the fund over the previous fiscal year and the ability of the fund to meet the
1234 requirements and provisions of this section, progress in the implementation of the strategic plan
1235 described in paragraph (m) including any recommendations regarding necessary modifications
1236 to the plan, and any recommendations for improving the ability of the board, the corporation,
1237 and the fund to meet said requirements and provisions. The oversight board shall be given the
1238 opportunity to review and comment on said report before its filing, and said filing shall include
1239 any such comments.

1240

1241 SECTION 30. Said section 4E of said chapter 40J, as so appearing, is hereby further
1242 amended by adding the following subsection:-

1243

1244 (m) Cost share payments made by the corporation in connection with incentive
1245 programs to support the installation of renewable energy systems as energy conservation
1246 measures are payments funded with monies collected by public utilities from the ratepayers of
1247 the commonwealth which, under section 20 of chapter 25, are deposited into the Massachusetts
1248 Renewable Energy Trust Fund, and are made primarily for the purpose of protecting and
1249 restoring the environment and are not intended to and do not substantially increase the annual
1250 income derived from the property at which the installation is made.

1251

1252 SECTION 31. Said section 4E of said chapter 40J, as so appearing, is hereby further
1253 amended by inserting after the word “technologies” in line 259, the following words:- or the
1254 purchase of debt obligations of the corporation issued for the purposes of the fund.

1255

1256 SECTION 32. Said section 4E of said chapter 40J, as so appearing, is hereby further
1257 amended by inserting after the word “certificates” in line 260, the following words:- or debt
1258 obligations.

1259

1260 SECTION 33. Said section 4E of said chapter 40J, as so appearing, is hereby further
1261 amended by inserting after the word “certificates”, in line 261, the following words:- or with
1262 the purchasers of such debt obligations, as the case may be,

1263

1264 SECTION 34. Said paragraph (l) is hereby further amended by inserting after the word
1265 “contracts” in lines 266 and 267 the following words:- or during the term, which shall not
1266 exceed 20 years, or any such debt obligations; provided, that in no event shall the principal
1267 amount of a debt obligation of the corporation sold in a fiscal year exceed 10 per cent of the
1268 amounts collected under said section 20 in the preceding fiscal year.

1269

1270 SECTION 35. Section 5 of said chapter 40J, as so appearing, is hereby amended by
1271 striking out the last paragraph and inserting in place thereof the following paragraph:-

1272

1273 In formulating plans for the establishment of centers or the undertaking of other
1274 activities under the provisions of this chapter, the corporation shall be authorized to consult with
1275 and utilize the services of the executive office of energy and environmental affairs, and the
1276 division of energy resources therein, the executive office of housing and economic
1277 development, and the department of business and technology therein, and the Massachusetts
1278 Development Finance Agency for such technical assistance as the board deems necessary or
1279 appropriate to the effective discharge of the corporation’s responsibilities.

1280

1281 SECTION 36. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby
1282 amended by striking out clause (3B) and inserting in place thereof the following clause:-

1283

1284 (3B) For energy conservation, alternative energy or renewable energy improvements to
1285 public buildings or facilities owned or leased by the city or town, or on property owned or
1286 leased by the city or town, 20 years.

1287

1288 SECTION 37. Paragraph (l) of section 1 of chapter 64A of the General Laws, as so
1289 appearing, is hereby amended by inserting after the first sentence the following
1290 [\[HSFF3\]](#) paragraphs:-

1291

1292 Notwithstanding the preceding sentence and subject to section 20 of chapter 29, for fuel
1293 consisting of a blend of gasoline and cellulosic biofuels, including but not limited to ethanol and
1294 butanol, the tax per gallon shall be reduced in proportion to the percentage of the fuel content,
1295 measured by volume that consists of fuels derived from cellulosic feedstocks. To be eligible for
1296 the tax reduction under this section, the particular cellulosic ethanol biofuel fuel used must yield
1297 a “substantial” lifecycle reduction in greenhouse gas emissions, including direct and indirect
1298 impacts on land use and other factors related to greenhouse gas emissions, per unit of delivered
1299 energy in comparison to the gasoline fuel displaced.

1300

1301 The division of energy resources, in consultation with the department of environmental
1302 protection, and pursuant to regulations it shall promulgate under sections 6(8) and 12 of chapter
1303 25A, shall determine what constitutes a “substantial” level of greenhouse gas reductions on a
1304 lifecycle basis and examine the potential impacts on other air pollutants.

1305

1306 In determining the lifecycle greenhouse gas reductions achieved by particular cellulosic
1307 ethanol biofuel supplies, and in determining what constitutes “substantial” reduction, the
1308 division shall utilize “best practices” available from other sources, including state governments,
1309 interstate organizations, academic researchers, national governments, and the European Union.

1310

1311 Entities wishing to obtain the aforesaid tax reduction for cellulosic biofuel shall provide
1312 documentation satisfactory to the division of energy resources that such fuel yields a substantial
1313 reduction in lifecycle greenhouse gas emissions, including direct and indirect impacts. The
1314 division shall promulgate regulations to effectuate the provisions of this subsection. The
1315 division, in consultation with the department of revenue, shall also promulgate regulations
1316 concerning the timing and form of documentation that will enable the department of revenue to
1317 determine the appropriate tax revenue to be collected.

1318

1319 SECTION 38. Said section 1 of said chapter 64A, as so appearing, is hereby further
1320 amended by adding the following 3 paragraphs:-

1321

1322 (m) “Cellulosic feedstocks”, cellulosic plant material or waste product composed
1323 primarily of cellulose, hemicellulose or lignin that can be converted into a cellulosic biofuel.

1324

1325 (n) “Cellulosic biofuel”, any alcohol, ether, ester, or hydrocarbon produced from any
1326 lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.

1327

1328 (o) “Lifecycle”, includes, but is not limited to, the production, extraction, cultivation,
1329 transportation, and storage of feedstock; the production, manufacture, distribution, marketing,

1330 transportation, and storage of fuel; and vehicle operation including refueling, combustion,
1331 conversion, and evaporation. Lifecycle includes transportation and use of water and changes in
1332 land use and land cover associated with feedstock and fuel production.

1333

1334

1335 SECTION 39. Section 221 of chapter 112 of the General Laws, as so appearing, is
1336 hereby amended by inserting after the word “components”, in lines 19 and 20, the following
1337 words:- , as well as home energy score.

1338

1339 SECTION 40. Said section 221 of said chapter 112, as so appearing, is hereby further
1340 amended by inserting after the word “chapter”, in line 23”, the following words:- including
1341 home energy scoring personnel, under section 97A of chapter 13.

1342

1343 SECTION 41. Section 222 of said chapter 112, as so appearing, is hereby amended by
1344 inserting after the word “performance”, in line 28, the following words:- , other than for the
1345 purposes of section 97A of chapter 13.

1346

1347 SECTION 42. Section 3 of chapter 143 of the General Laws, as so appearing, is hereby
1348 amended by inserting after the word “structure”, in line 55, the following words:- , and the
1349 energy requirements imposed by clause (n) of section 94.

1350

1351 SECTION 43. Said section 94 of said chapter 143, as so appearing, is hereby amended
1352 by inserting after the word “ninety-six”, in line 61, the following words:- and including the
1353 energy conservation code.

1354

1355 SECTION 44. Said section 94 of said chapter 143, as so appearing, is hereby further
1356 amended by adding the following 4 clauses:-

1357

1358 (m) To adopt and fully integrate the latest International Energy Conservation Code, or
1359 IECC, as part of the state building code, together with any more stringent energy-efficiency
1360 provisions that the board, in consultation with the division of energy resources, concludes are
1361 warranted. The energy provisions of the State Building Code shall be updated within 1 year of
1362 any revision to the IECC.

1363

1364 (n) In consultation with the division of energy resources, to develop requirements and
1365 promulgate regulations as part of the State Building Code for the training and certification of
1366 city and town inspectors of buildings, building commissioners, and local inspectors regarding
1367 the energy provisions of the State Building Code, and to require that all new construction and
1368 any major reconstruction, alteration, or repair of residential and non-residential buildings pass
1369 inspection by inspectors who have been trained and certified, demonstrating full compliance
1370 with the energy provisions of the State Building Code.

1371

1372 (o) In consultation with the division of energy resources, to develop requirements and
1373 promulgate regulations as part of the State Building Code, in addition to the requirements of the
1374 latest IECC, requiring a process to ensure that all new non-residential buildings larger than
1375 10,000 square feet and any major reconstruction, alteration, or repair of all non-residential
1376 buildings larger than 10,000 square feet perform as designed with respect to energy
1377 consumption by undergoing building commissioning or acceptance testing. Such
1378 commissioning must be completed before the issuance of a certificate of occupancy.

1379

1380 (p) In consultation with the division of energy resources, professional organizations and
1381 other stakeholders, to prepare a report evaluating the advisability of a requirement of periodic
1382 commissioning for large non-residential buildings, and if such a requirement is deemed
1383 advisable, evaluating possible approaches to periodic commissioning.

1384

1385 SECTION 45. Chapter 159 of the General Laws is hereby amended by striking out
1386 section 10, as amended by section 30 of chapter 19 of the acts of 2007, and inserting in place
1387 thereof the following section:-

1388

1389 Section 10. The department of telecommunications and cable shall enforce this chapter
1390 to the extent that it relates to telecommunications. The department of public utilities shall
1391 enforce all other provisions.

1392

1393 SECTION 46. Chapter 164 of the General Laws is hereby amended by striking out
1394 section 1, as amended by section 36 of said chapter 19, and inserting in place thereof the
1395 following section:-

1396 Section 1. As used in this chapter the following words shall, unless the context
1397 otherwise requires, have the following meanings:

1398 "Aggregator", an entity which groups together electricity customers for retail sale
1399 purposes, except for public entities, quasi-public entities or authorities, or subsidiary
1400 organizations thereof, established under the laws of the commonwealth.

1401 "Alternative energy development", shall include, but not be limited to, solar energy;
1402 wind; wood; alcohol; hydroelectric; biomass energy systems; renewable non-depletable; and
1403 recyclable energy sources.

1404 "Alternative energy producer", any person, firm, partnership, association, public or
1405 private corporation, or any agency, department, board, commission or authority of the
1406 commonwealth or of a subdivision of the commonwealth, that owns or operates a cogeneration
1407 facility or small power production facility as defined in this section, and does not engage in the
1408 retail sale of electricity other than sales to customers that are within the confines of an industrial
1409 park, which park existed prior to March first, nineteen hundred and eighty-two, and in which
1410 park there existed as of said date electrical generating capacity of more than fifteen megawatts.

1411 "Alternative energy property", any property powered in whole or in part by the sun,
1412 wind, water, biomass, alcohol, wood, or any renewable, non-depletable or recyclable fuel, and
1413 property related to the exploration, development, processing, transportation, and distribution of
1414 the aforementioned energy resources.

1415

1416 "Ancillary services", those functions which support generation, transmission, and
1417 distribution, and shall include the following services: (1) reactive power/voltage control; (2) loss
1418 compensation; (3) scheduling and dispatch; (4) load following; (5) system protection service;
1419 and (6) energy imbalance service.

1420 "Articles of organization", (i) the articles of organization of a corporation which were
1421 filed subsequent to October 1, 1973, (ii) any agreement of association, special act of
1422 incorporation, and other charter documents, including by-law provisions and stockholder votes
1423 in effect prior to October 1, 1973,, which, subsequent to that date, would be included in articles
1424 of organization, and all amendments thereto, effective prior to October 1, 1973, and (iii) any of
1425 the following amendments made or filed from time to time subsequent to October1, 1973:

1426 (1) a certificate of a vote establishing a series filed under section 26 of chapter 156B;

1427 (2) articles of amendment filed under section 8B;

1428 (3) restated articles of organization filed under section 8C;

1429 (4) certificates of confirmation of proceedings filed under section 8D;

1430 (5) articles of consolidation or merger filed under section 102A;

1431 (6) articles of dissolution filed under section 100 of chapter 156B;

1432 (7) a certificate as to the revival of a corporation filed under section 108 of chapter 156B.

1433 “Basic service”, the electricity services provided to a retail customer upon either (i) the
1434 inability of a customer to receive competitive supply from a supplier under subsection (d) of
1435 section 1B, (ii) the failure of the retail customer to elect competitive supply from a supplier
1436 under said subsection (d) of said section 1B, or (iii) upon the expiration and the retail customers
1437 failure to renew a competitive supply contract under said subsection (d) of said section 1B or
1438 other means.

1439

1440 “Cogeneration facility”, any electrical generating unit having a power production
1441 capacity which, together with any other facilities located at the same site, is not greater than 30
1442 megawatts and which produces electric energy and steam or other form of useful energy utilized
1443 for industrial, commercial, heating or cooling purposes, and employs a fuel other than oil as its
1444 primary energy source, except that oil may be used (1) in combination with coal, in a mixture
1445 not exceeding 70 per cent oil, or (2) during any modifications to any existing electrical
1446 generating facility undertaken for the purpose of enabling such facility to employ, except during
1447 any periods of maintenance or repair, a fuel other than oil as its primary energy source. A
1448 cogeneration facility shall also include any electric generating unit having a power production
1449 capacity which, together with any other facilities located at the same site, is not greater than 30
1450 megawatts and which produces electric energy and steam or other form of useful energy utilized
1451 for industrial, commercial, heating or cooling purposes that is within the confines of an
1452 industrial park, which park existed prior to March 1, 1982 and, in which park there existed, as of
1453 said date, electrical generating capacity of more than 15 megawatts, and in which park there
1454 existed, since said date, a cogeneration facility, as defined herein, or a small power production
1455 facility.

1456 “Contract termination fee”, the fees owed by the distribution company to its wholesale
1457 power supplier, as determined and approved by the department of public utilities.

1458 “Corporation”, a corporation to which this chapter applies, as set forth in section three.

1459 “Default service”, the electricity services provided to a retail customer upon either the (i)
1460 failure of a distribution company or supplier to provide such electricity services as required by
1461 law or as contracted for under the standard service offer, (ii) the completion of the term of the
1462 standard service offer, or (iii) upon the inability of a customer to receive standard service
1463 transition rates during the term of the standard service offer under section 1B.

1464 “Department”, the department of public utilities.

1465 “Distributed generation”, a generation facility or renewable energy facility connected
1466 directly to distribution facilities or to retail customer facilities which alleviate or avoid
1467 transmission or distribution constraints or the installation of new transmission facilities or
1468 distribution facilities.

1469 “Distribution”, the delivery of electricity over lines which operate at a voltage level
1470 typically equal to or greater than 110 volts and less than 69,000 volts to an end-use customer
1471 within the commonwealth. The distribution of electricity shall be subject to the jurisdiction of
1472 the department of public utilities.

1473 "Distribution company", a company engaging in the distribution of electricity or owning,
1474 operating, or controlling distribution facilities; provided, however, a distribution company shall
1475 not include any entity which owns or operates plant or equipment used to produce electricity,
1476 steam, and chilled water, or any affiliate engaged solely in the provision of such electricity,
1477 steam, and chilled water, where the electricity produced by such entity or its affiliate is
1478 primarily for the benefit of hospitals and non-profit educational institutions, and where such
1479 plant or equipment was in operation prior to January 1, 1986.

1480 "Distribution facility", plant or equipment used for the distribution of electricity and
1481 which is not a transmission facility, a cogeneration facility, or a small power production facility.

1482 "Distribution service", the delivery of electricity to the customer by the electric
1483 distribution company from points on the transmission system or from a generating plant, at
1484 distribution voltage.

1485 "Electric company", a corporation organized under the laws of the commonwealth for
1486 the purpose of making by means of water power, steam power or otherwise and selling or
1487 transmitting and selling, or transmitting only, or distributing and selling, or only distributing,
1488 electricity within the commonwealth, or authorized by special act so to do, even though
1489 subsequently authorized to make or sell gas; provided, however, that electric company shall not
1490 mean an alternative energy producer; and provided, further, that a distribution company shall
1491 not include any entity which owns or operates a plant or equipment used to produce electricity,
1492 steam, and chilled water, or any affiliate engaged solely in the provision of such electricity,
1493 steam, and chilled water, where the electricity produced by such entity or its affiliate is
1494 primarily for the benefit of hospitals and nonprofit educational institutions, and where such
1495 plant or equipment was in operation before January 1, 1986; and provided, further, that electric
1496 company shall not mean a corporation only transmitting and selling, or only transmitting,
1497 electricity unless such corporation is affiliated with an electric company organized under the
1498 laws of the commonwealth for the purpose of distributing and selling or distributing only,
1499 electricity within the commonwealth.

1500 "Electric service", the provision of generation, transmission, distribution, or ancillary
1501 services.

1502 "End user", any individual, corporation, firm or subsidiary of any firm that is an ultimate
1503 consumer of petroleum products and which, as part of its normal business practices, purchases
1504 or obtains petroleum products from a wholesaler or reseller and receives delivery of that
1505 product.

1506

1507 "Energy audit", a determination of the energy consumption characteristics of a building
1508 or facility which identifies the type, size, and rate of energy consumption of such building or
1509 facility and the major energy using systems of such building or facility; determines appropriate

1510 energy conservation maintenance and operating procedures; and indicates the need, if any, for
1511 the acquisition and installation of energy conservation measures or alternative energy property.

1512

1513 “Energy conservation”, shall include, but not be limited to, the modification of or
1514 change in operation of real or personal property in a manner likely to improve the efficiency of
1515 energy use, and shall include energy conservation measures, and any process to audit or identify
1516 and specify energy and cost savings.

1517

1518 “Energy conservation measures”, measures involving modifications of maintenance and
1519 operating procedures of a building or facility and installations therein, which are designed to
1520 reduce energy consumption in such building or facility, or the installation, modification of an
1521 installation in a building or facility which is primarily intended to reduce energy consumption.

1522

1523 “Energy conservation projects”, projects to promote energy conservation, including but
1524 not limited to energy conserving modification to windows and doors; caulking and
1525 weatherstripping; combined heat and power facilities; insulation, automatic energy control
1526 systems; hot water systems; equipment required to operate variable steam, hydraulic, and
1527 ventilating systems; plant and distribution system modifications including replacement of
1528 burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical
1529 furnace ignition systems; utility plant system conversions; replacement or modification of
1530 lighting fixtures; energy recovery systems; and, cogeneration systems.

1531 "Energy efficiency", the implementation of an action, policy, or measure which entails
1532 the application of the least amount of energy required to produce a desired or given output.

1533 “Energy management services”, a program of services, including energy audits, energy
1534 conservation measures, energy conservation projects, or a combination thereof, and building
1535 maintenance and financing services, primarily intended to reduce the cost of energy and water

1536 in operating one or more buildings, which may be paid for in whole or in part, by cost savings
1537 attributable to a reduction in energy and water consumption which result from such services.

1538 "FERC", the federal energy regulatory commission.

1539 "Gas company", a corporation organized for the purpose of making and selling, or
1540 distributing and selling, gas within the commonwealth, even though subsequently authorized to
1541 make or sell electricity; provided, however, that gas company shall not mean an alternative
1542 energy producer.

1543 "Generation", the act or process of transforming other forms of energy into electric
1544 energy, or the amount of electric energy so produced.

1545 "Generation company", a company engaged in the business of producing,
1546 manufacturing, or generating electricity or related services or products including, but not limited
1547 to, renewable energy generation attributes for retail sale to the public.

1548 "Generation facility", plant or equipment used to produce, manufacture, or otherwise
1549 generate electricity and which is not a transmission facility.

1550 "Generation service", the provision of generation and related services to a customer.

1551 "Green Building", buildings, including but not limited to, homes, offices, schools, and
1552 hospitals constructed or renovated to incorporate design techniques, technologies, and materials
1553 that lessen its dependence on fossil fuels and minimize its overall negative environmental
1554 impact.

1555 "Horizontal market power", a situation in which one or a few market participants combined
1556 have undue concentration in the ownership of facilities at the same level in the chain of
1557 production resulting in the ability to influence price to his or their own benefit.

1558 "ISO-NE", the independent system operator – New England.

1559 "Mitigation", all actions or occurrences which reduce the amount of money that a
1560 distribution company seeks to collect through the transition charge, including those amounts
1561 resulting from both matters within the company's control and from matters not wholly within
1562 the company's control. Mitigation shall, in accordance with the provisions of section 1G,
1563 include, but not be limited to, the following: (1) sales of capacity, energy, ancillary services,
1564 reserves, and emission allowances from generating facilities that are wholly or partly owned by
1565 the company; (2) sales of capacity, energy, ancillary services, reserves, and emission allowances
1566 from generating facilities with which the company has a power purchase agreement; (3)
1567 adjustments to the company's minimum obligations under purchase power agreements that
1568 decrease such obligations, such as those that may be obtained through contract buy-out or
1569 renegotiation; (4) residual value; (5) sales and voluntary write downs of company generation-
1570 related assets; (6) any market value in excess of net book value associated with the sale, lease,
1571 transfer, or other use of the assets of the company unrelated to the provision of transmission
1572 service or distribution service at regulated prices, including, but not limited to, rights-of-way,
1573 property, and intangible assets when the costs associated with the acquisition of those assets
1574 have been reflected in the company's rates for regulated service; provided, however, that the
1575 department of public utilities shall determine their market values based on the highest prices
1576 that such assets could reasonably realize after an open and competitive sale; and (7) any allowed
1577 refinancing of stranded assets or other debt obligations as provided by law.

1578 "Non-renewable energy supply and resource development", shall include, but not be
1579 limited to, gasoline, natural gas, coal, nuclear energy, petroleum both offshore and onshore, and
1580 facilities related to the exploration, development, processing, transportation, and distribution of
1581 such resources and programs established for the allocation of supplies of such resources and the
1582 development of supply shortage contingency plans.

1583

1584 "Petroleum products", propane, gasoline, unleaded gasoline, kerosene, #2 heating oil,
1585 diesel fuel, kerosene base jet fuel, and #4, 5, and 6 residual oil for utility and non-utility uses,
1586 and all petroleum derivatives, whether in bond or not, which are commonly burned to produce

1587 heat, power, electricity, or motion or which are commonly processed to produce synthetic gas
1588 for burning.

1589 "Primary energy source", the fuel or fuels used, except during periods of maintenance or
1590 repair, for the generation of electric energy, except that such term does not include the minimum
1591 amounts of fuel required for ignition, start-up, testing, flame stabilization, and control uses, and
1592 minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and
1593 emergencies declared by the governor, directly affecting the public health, safety, and welfare
1594 which would result from electric power outages.

1595 "Renewable energy" or "renewables", either (i) resources whose common characteristic
1596 is that they are nondepletable or are naturally replenishable but flow-limited, or (ii) existing or
1597 emerging non-fossil fuel energy sources or technologies, which have significant potential for
1598 commercialization in New England and New York, and shall include the following: solar
1599 photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy;
1600 geothermal; fuel cells; landfill gas; waste-to-energy which is a component of conventional
1601 municipal solid waste plant technology in commercial use; naturally flowing water and
1602 hydroelectric; and low-emission, advanced biomass power conversion technologies, such as
1603 gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops,
1604 biogas, biodiesel, or organic refuse-derived fuel. The following technologies or fuels shall not
1605 be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells,
1606 and nuclear power.

1607 "Reseller", any person, corporation, firm or subsidiary of any firm that carries on the
1608 trade or business of purchasing petroleum products and reselling them without substantially
1609 changing their form, or any wholesaler or retail seller of electricity or natural gas.

1610 "Residual value", the value of electric company assets, not including the income which
1611 may be obtained through generation facility operation.

1612 "Retail access", the use of transmission and distribution facilities owned by a
1613 transmission company or a distribution company to transmit or distribute electricity from a
1614 generation company, supplier, or aggregator to retail customers.

1615 "Retail customer", a customer who purchases electricity for its own consumption.

1616 "Securitization", the use of rate reduction bonds to refinance debt and equity associated
1617 with transition costs under section 1H.

1618 "Service territory", the geographic area in which a distribution company provided
1619 distribution service on July 1, 1997.

1620 "Small power production facility", a facility which is any electrical generating unit
1621 which produces electric energy solely by the use, as a primary energy source, of biomass, waste,
1622 wind, water, wood, geothermal, solar energy, or any combination thereof, or produces gas if it is
1623 produced from coal, biomass, solid waste or wood, and has a power production capacity which,
1624 together with any other facilities located at the same site is not greater than 30 megawatts.

1625 "Steam distribution company," any person, firm, partnership, association, private
1626 corporation organized under the laws of the commonwealth for the purpose of operating any
1627 plant or equipment or facilities for the manufacture, production, transmission, furnishing or
1628 distribution of steam to or for the public for compensation within the Commonwealth; provided
1629 however, that steam distribution company shall not mean: (i) an entity producing and
1630 distributing steam exclusively on private property and solely for the entity's use or the use of
1631 the entity's tenant, and not for distribution or sale; or (ii) a company that produces and sells
1632 steam as a bi-product of the production of electricity for sale in the wholesale electricity markets
1633 and does not own or operate pipelines off site of the generating facility for the distribution of
1634 steam.

1635 "Supplier", any supplier of generation service to retail customers, including power
1636 marketers, brokers, and marketing affiliates of distribution companies, except that no electric
1637 company shall be considered a supplier.

1638 "Supplying electricity in bulk", engaging in the business of making and selling or
1639 distributing and selling electricity to electric companies, railroads, street railways or electric
1640 railroads, or to municipalities for municipal use or re-sale to their inhabitants, or to persons,

1641 associations or corporations under limitations imposed by special law or under section 90 or
1642 corresponding provisions of earlier laws.

1643 "Transition charge", the charge that provides the mechanism for recovery of an electric
1644 company's transition costs.

1645 "Transition costs", the embedded costs as determined under section 1H which remain
1646 after accounting for maximum possible mitigation, subject to determination by the department
1647 of public utilities.

1648 "Transmission", the delivery of power over lines that operate at a voltage level typically
1649 equal to or greater than 69,000 volts from generating facilities across interconnected high
1650 voltage lines to where it enters a distribution system.

1651 "Transmission company", a company engaging in the transmission of electricity or
1652 owning, operating, or controlling transmission facilities. A transmission company shall provide
1653 transmission service to all generation companies, municipal lighting plants, suppliers, and load
1654 aggregators in the commonwealth, whether affiliated or not, on comparable, nondiscriminatory
1655 prices and terms, under provisions of federal law and regulation.

1656 "Transmission facility", plant or equipment used for the transmission of electricity, as
1657 determined by the federal energy regulatory commission under federal law and regulation.

1658 "Transmission service", the delivery of electricity to a retail customer, supplier,
1659 distribution company, or wholesale customer by a transmission company.

1660 "Unbundled rates", rates designed to separate the costs of providing generation, the costs
1661 of transmission and distribution services, and transition and general access charges.

1662 "Vertical market power", a situation in which one or a few market participants, having
1663 joint ownership of facilities at differing levels of the chain of production, such as generation,
1664 transmission, and distribution, possess the ability to use such joint ownership to influence price
1665 to the participants' own benefit.

1666 “Wholesaler”, any person, corporation, firm or any part or subsidiary of any firm which
1667 supplies, sells, transfers, or otherwise furnishes petroleum products to resellers or end-users.

1668 "Wholesale generation company", a company engaged in the business of producing,
1669 manufacturing, or generating electricity for sale at wholesale only.

1670 SECTION 47. Subsection (f) of section 1A of chapter 164 of the General Laws is
1671 hereby repealed.

1672 SECTION 48. Section 1A of said chapter 164, as appearing in the 2006 Official
1673 Edition, is hereby amended by adding the following subsection:-

1674

1675 (f) Nothing in this section and sections 1B to 1H, inclusive, shall be deemed to preclude
1676 an electric company or a distribution company from constructing, owning and operating one or
1677 more generation facilities that produce renewable energy, as defined in section 1 of this chapter
1678 164, provided that such company may not own or operate more than 25 megawatts of such
1679 facilities before January 1, 2009, and 50 megawatts on and after January 1, 2010. No electric
1680 company or distribution company may recover costs associated with the construction,
1681 ownership or operation of a generating facility producing renewable energy. Each electric
1682 company or a distribution company shall file for pre-approval for construction, ownership, or
1683 operation of such generation facilities with the department. The department shall review each
1684 filing and shall determine whether the proposal is, in the department's judgment, consistent with
1685 the Commonwealth's energy policy, and could be used to satisfy, in part, the renewable energy
1686 portfolio standard requirements set forth in chapter 25, section 11F. The department shall issue
1687 an order within 4 months from the date of filing by the electric company or distribution
1688 company. The department may adopt such rules and regulations as may be necessary to
1689 implement this subsection.

1690

1691

1692 SECTION 49. Section 1D of said chapter 164, as so appearing, is hereby amended by
1693 adding the following 2 paragraphs:-

1694

1695 Residential or small commercial customers (i) initiating new utility service, (ii)
1696 reinstating service following a change of residence or business location, (iii) making an inquiry
1697 regarding their rates, or (iv) seeking information regarding energy efficiency shall be offered the
1698 option to learn about their ability to enroll with a participating non-utility competitive supplier
1699 of energy. Customers expressing an interest to learn about their electric supply options shall be
1700 informed of offers available by participating non-utility competitive suppliers. The electric
1701 distribution company shall describe then available offers available through a method approved
1702 by the department. The information shall include, but not be limited to, the price and term of
1703 the available electric supply option. Customers expressing an interest in a particular non-utility
1704 competitive supplier offer available shall be immediately transferred to a call center operated by
1705 the participating non-utility competitive supplier.

1706

1707 Each calendar quarter, participating non-utility competitive suppliers of energy shall be
1708 allowed to list qualifying electric offers to provide electric generation service to residential and
1709 small commercial customers with each customer's utility bill. The department shall determine
1710 the manner such information is presented in customers' utility bills.

1711

1712 SECTION 50. Section 1E of said chapter 164, as so appearing, is hereby amended by
1713 striking out, in line 8, the words "service outages" and inserting in place thereof the following
1714 words:- , service outages, successful implementation of the electric and natural gas resources
1715 cost procurement plans, effective delivery of energy efficiency and demand side management.

1716

1717 SECTION 51. Section 1E of said chapter 164, as so appearing, is hereby further
1718 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

1719

1720 (c) Each distribution, transmission, and gas company shall file a report with the
1721 department by March 1 of each year comparing its performance during the previous calendar
1722 year to the department's service quality standards and any applicable national standards as may
1723 be adopted by the department. The department shall be authorized to levy a penalty against any
1724 distribution, transmission, or gas company which fails to meet the service quality standards in
1725 an amount up to and including the equivalent of 2 per cent of such company's transmission and
1726 distribution service for the previous calendar year. Each distribution and gas company also
1727 shall be required to file with the department an annual capital spending plan on such date
1728 specified by the department. Such filing also shall include a report on capital spending from the
1729 prior year's capital spending plan. To the extent the utility has not reasonably complied with
1730 the prior year's capital spending plan, the department shall be authorized to open an
1731 investigation. In any such investigation, the utility shall have the burden of proof to show
1732 whether it had good cause for failing to reasonably comply with the capital spending plan. If
1733 the utility does not meet its burden, the department may levy a financial penalty up to 2 per cent
1734 of transmission and distribution revenues, over and above any service quality penalty specified
1735 above, the amount of which shall depend upon the facts and circumstances and degree of fault.
1736 In addition to the annual capital spending plan, the gas and electric distribution companies are
1737 required to include a plan reasonably describing its program to comply with any inspection,
1738 maintenance, repair, and replacement requirements under any applicable federal standards and
1739 any other applicable state standards identified by the department. The department shall require
1740 each utility to maintain detailed records of its inspection and maintenance activities and to
1741 submit annual compliance reports to the department.

1742

1743 SECTION 52. Subparagraph (i) of paragraph (4) of section 1F of said chapter 164, as so
1744 appearing, is hereby amended by striking out the second and fourth paragraphs.

1745

1746 SECTION 53. Said paragraph (4) of said section 1F of said chapter 164, as so appearing,
1747 is hereby further amended by striking out subparagraphs (ii) and (iii) and inserting in place
1748 thereof the following subparagraph:-

1749

1750 (ii) A residential customer eligible for low-income discount rates shall receive the
1751 service on demand. Each distribution company shall periodically notify all customers of the
1752 availability of and method of obtaining low-income discount rates. An existing residential
1753 customer eligible for low-income discount on the date of start of retail access who orders
1754 service for the first time from a distribution company shall be offered basic service by that
1755 distribution company.

1756

1757 SECTION 54. Section 1G of said chapter 164, as so appearing, is hereby amended by
1758 striking out, in lines 366 and 367, the words “government regulations” and inserting in place
1759 thereof the following words:— telecommunications, utilities and energy.

1760

1761 SECTION 55. Section 47C of said chapter 164, as so appearing, is hereby amended by
1762 adding the following subsection:-

1763

1764 (l) The activities of a municipal lighting plant cooperative shall not be imputed to its
1765 individual members and the provision of energy and energy-related services by a municipal
1766 lighting plant cooperative to retail customers without any accompanying sale of generation shall
1767 not constitute the supply of generation services by its members for the purposes of subsection
1768 (b) of section 47A.

1769

1770 SECTION 56. Section 47D of said chapter 164, as so appearing, is hereby amended by
1771 striking out in lines 4-10 the words “when necessary for protecting trade secrets, confidential,
1772 competitively sensitive or other proprietary information provided in the course of proceedings
1773 conducted pursuant to this chapter when such municipal lighting board determines that such
1774 disclosure will adversely affect its ability to conduct business in relation to other entities
1775 making, selling, or distributing electric power and energy pursuant to this chapter” and inserting
1776 in place thereof the following words:- when the municipal light plant manager determines that
1777 disclosure of trade secrets, confidential, competitively sensitive or other proprietary information
1778 will adversely affect the plant’s customers or its ability to do business.

1779

1780 SECTION 57. Section 76D of said chapter 164, as so appearing, is hereby amended by
1781 inserting after the word “companies”, in lines 1 to 2, line 14 , the third time it appears, and in
1782 line 20, the second time it appears, in each instance, the following words:- , steam distribution
1783 companies.

1784

1785 SECTION 58. Said section 76D of said chapter 164, as so appearing, is hereby amended
1786 by inserting after the word “company”, in line 9, the following words:- , steam distribution
1787 company.

1788

1789 SECTION 59. Said chapter 164 is hereby further amended by inserting after section
1790 94A the following section:-

1791

1792 Section 94A ½. No tariff or agreement providing for the interconnection or operation of
1793 a distributed generation unit owned and operated by and located on the property of the

1794 commonwealth, any political subdivision thereof, or any federal agency shall require that such
1795 party pledge its credit or otherwise indemnify or provide insurance related to the
1796 interconnection and operation of distributed generation facilities.

1797

1798 SECTION 60. Said chapter 164 is hereby further amended by striking out section 96, as
1799 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

1800

1801 Section 96. Companies subject to this chapter and their holding companies may,
1802 notwithstanding any other provisions of this chapter or of any general or special law,
1803 consolidate or merge with one another, or may sell and convey their properties to another of
1804 such companies or to a wholesale generation company and such other company may purchase
1805 such properties, provided that such purchase, sale, consolidation or merger, and the terms
1806 thereof, have been approved, at meetings called therefor, by vote of the holders of at least two
1807 thirds of each class of stock outstanding and entitled to vote on the question of each of the
1808 contracting companies, and that the department, after notice and a public hearing, has
1809 determined that such purchase and sale or consolidation or merger, and the terms thereof, are
1810 consistent with the public interest. The purchase or sale of properties by, or the consolidation or
1811 merger of, wholesale generation companies shall not require departmental approval. The merger
1812 or consolidation of holding companies that has been filed and approved by the Federal Energy
1813 Regulatory Commission prior to the effective date of this section shall not be subject to the
1814 requirements of this section

1815

1816 SECTION 61. Section 116 of said chapter 164, as so appearing, is hereby amended by
1817 inserting after the word "secretary" in line 2, the following words:- or municipal lighting plant
1818 manager.

1819

1820 SECTION 62. Said section 116 of said chapter 164, as so appearing, is hereby further
1821 amended by inserting after the word “removal,” in lines 11 and 12, the following words:-the gas
1822 or electric company employing.

1823

1824 SECTION 63. Said section 116 of said chapter 164, as so appearing, is hereby further
1825 amended by striking out, in line 16, the word “such” and inserting in place thereof the
1826 following words:- a duly authorized.

1827

1828 SECTION 64. Said section 116 of said chapter 164, as so appearing, is hereby further
1829 amended by adding the following sentence :- A gas or electric company shall also be permitted
1830 to direct a duly authorized employee to restore meters, pipes, wires, fittings, works or service,
1831 consistent with the local bargaining agreement entered into by the company and the local
1832 bargaining unit to which the employee belongs.

1833

1834 SECTION 65. Said chapter 164 is hereby further amended by striking out section 124G,
1835 as so appearing, and inserting in place thereof the following section:-

1836

1837 Section 124G. A gas or electric company which shuts off gas or electric service of a
1838 residential customer in compliance with this chapter shall, upon receipt of full payment or such
1839 partial payment by such customer as the department deems satisfactory, restore full and
1840 complete service. A gas or electric company which shuts off gas or electric service of a
1841 residential customer eligible for the low-income energy assistance program in compliance with
1842 this chapter, shall restore service upon receipt of full or partial payment by or on behalf of such
1843 customer as the department deems satisfactory, but in no case greater than 25 per cent of the
1844 amount in arrears.

1845

1846 Gas and electric companies must offer any residential customer eligible for the low-
1847 income energy assistance program who has an account in arrears, but whose utility service has
1848 not yet been terminated, a payment plan of not less than 4 months including an initial down
1849 payment of not more than 25 per cent of the balance owed, and the remaining repayment balance
1850 amounts shall be divided equally; but, a company that seeks a repayment agreement of less than
1851 4 months shall request approval from the department for good cause shown. A company making
1852 such a request shall notify the customer that the request has been made. This paragraph shall not
1853 limit the right of a customer to request a payment plan of more than 4 months or limit the
1854 authority of the department to order a payment plan of more than 4 months or a down payment
1855 of less than 25 per cent either on an individual basis or through revisions to its billing and
1856 termination regulations.

1857

1858 SECTION 66. The fourth paragraph of section 134 of said chapter 164, as so appearing,
1859 is hereby amended by striking out the last sentence.

1860

1861 SECTION 67. Said section 134 of said chapter 164, as so appearing, is hereby further
1862 amended by striking out, in lines 56 and 64, the words “standard offer” and inserting in place
1863 thereof, in each instance, the following word:- basic.

1864 SECTION 68. Said section 134 of said chapter 164, as so appearing, is hereby further
1865 amended by striking out, in line 74, the words “standard offer” and inserting in place thereof the
1866 following words:- basic service.

1867 SECTION 69. Said chapter 164 is hereby further amended by adding the following 6
1868 sections:-

1869 Section 138. As used in this section and sections 139 and 140, the following words shall,
1870 unless the context otherwise requires, have the following meanings:-

1871 “Class I net metering credit”, a credit equal to the excess kilowatt-hours by time of use
1872 billing period (if applicable) multiplied by the sum of the distribution company’s (i) default
1873 service kilowatt-hour charge in the ISO-NE load zone where the customer is located, (ii)
1874 distribution kilowatt-hour charge, (iii) transmission kilowatt-hour charge, and (iv) transition
1875 kilowatt-hour charge. This shall not include the demand-side management and renewable
1876 energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25. The credit for a Class
1877 I net metering facility not using solar or wind as its energy source will be the average monthly
1878 clearing price at the ISO-NE.

1879

1880 “Class I net metering facility”, any plant or equipment that is used to produce,
1881 manufacture, or otherwise generate electricity and that is not a transmission facility and that has
1882 a design capacity of 60 kilowatts or less.

1883

1884 “Class II net metering credit”, a credit equal to the excess kilowatt-hours by time of use
1885 billing period (if applicable) multiplied by the sum of the distribution company’s (i) default
1886 service kilowatt-hour charge in the ISO-NE load zone where the customer is located, (ii)
1887 distribution kilowatt-hour charge, (iii) transmission kilowatt-hour charge, (iv) transition
1888 kilowatt-hour charge. This does not include the demand-side management and renewable
1889 energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

1890 “Class II net metering facility”, a Solar-net-metering facility or wind-net-metering
1891 facility that has a generating capacity of more than 60 kilowatts and not more than 1 megawatt;
1892 provided however, that Class II net metering facility owned or operated by a customer which is
1893 a municipality or other governmental entity may have a generating capacity of more than 60
1894 kilowatts and not more than 1 megawatt per unit.

1895 “Class III net metering credit”, a credit equal to the excess kilowatt-hours by time of use
1896 billing period (if applicable) multiplied by the (i) distribution company’s default service
1897 kilowatt-hour charge in the ISO-NE load zone where the Customer is located, (ii) transmission

1898 kilowatt-hour charge, and (iii) transition kilowatt-hour charge. Notwithstanding the foregoing,
1899 in the case of a Customer which is a municipality or other governmental entity, the credit shall
1900 be equal to the excess kilowatt-hours multiplied by the sum of (i), (iii), and (iii), as set forth in
1901 the preceding sentence, and the distribution kilowatt-hour charge. This does not include the
1902 demand-side management and renewable energy kilowatt-hour charges set forth in sections 19
1903 and 20 of chapter 25.

1904 “Class III net metering facility”, a solar-net-metering or wind-net-metering facility with
1905 a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts; provided
1906 however, that Class III net metering facility owned or operated by a customer which is a
1907 municipality or other governmental entity may have a generating capacity of more than 1
1908 megawatt but less than or equal to 2 megawatts per solar-net-metering or wind-net-metering
1909 unit.

1910 “Customer”, a customer of a distribution company that is entitled to the net metering
1911 credits and includes the net metering facility itself.

1912 “Neighborhood”, a geographic area including and limited to a unique community of
1913 interests that is recognized as such by residents of such area and which in addition to residential
1914 and undeveloped properties may encompass commercial properties.

1915

1916 “Neighborhood net metering credit”, a credit equal to the excess kilowatt-hours by time
1917 of use billing period, if applicable, multiplied by the (i) distribution company’s default service
1918 kilowatt-hour charge in the ISO-NE load zone where the customer is located, (ii) transmission
1919 kilowatt-hour charge, and (iii) transition kilowatt-hour charge. This shall not include the
1920 demand-side management and renewable energy kilowatt-hour charges set forth in sections 19
1921 and 20 of chapter 25.

1922 “Neighborhood net metering facility”, a Class I, II, or III net metering facility that: (a) is
1923 owned by or serves the energy needs of a group of 10 or more residential customers that reside

1924 in a single neighborhood and are served by a single distribution company; and (b) is located
1925 within the same neighborhood as the customers that own or are served by the facility.

1926 “Net metering”, the process of measuring the difference between electricity delivered by
1927 a distribution company and electricity generated by a Class I, Class II, Class III, or
1928 neighborhood net metering facility and fed back to the distribution company.

1929 “Solar net metering facility”, a facility for the production of electrical energy that uses
1930 sunlight to generate electricity and is interconnected to a distribution company.

1931 “Wind net metering facility”, a facility for the production of electrical energy that uses
1932 wind to generate electricity and is interconnected to a distribution company.

1933 Section 139. (a) A distribution company customer that uses electricity generated by a
1934 Class I or Class II net metering facility may elect net metering as follows:-

1935

1936 (1) If the electricity generated by the Class I or Class II net metering facility during a
1937 billing period exceeds the customer’s kilowatt-hour usage during the billing period, the
1938 customer shall be billed for 0 kilowatt-hour usage and the excess Class I or Class II net metering
1939 credits shall be credited to the customer’s account. Credits may be carried forward from month
1940 to month. A Class I or Class II Wind or solar net metering facility may designate one or more
1941 customers that are customers of the same distribution company to which the Class I or Class II
1942 wind or solar net metering facility is interconnected and located in the same ISO-NE load zone
1943 to receive such credits in amounts attributed by the Class I or Class II wind or solar net metering
1944 facility. Written notice of the identity of the customers so designated and the amounts of the
1945 credits to be attributed to such customers shall be in a form as the distribution company shall
1946 reasonably require.

1947 (2) If the customer’s kilowatt-hour usage exceeds the electricity generated by the Class I
1948 or Class II net metering facility during the billing period, the customer shall be responsible for
1949 the balance at the distribution company’s applicable rate.

1950 (b) A distribution company customer that uses electricity generated by a Class III net
1951 metering facility may elect net metering as follows:-

1952 (1) If the electricity generated by the Class III net metering during a billing period
1953 exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be
1954 billed for 0 kilowatt-hour usage and the excess Class III net metering credits shall be credited to
1955 the customer's account. Credits may be carried forward from month to month. A Class III net
1956 metering facility may designate 1 or more customers that are customers of the same distribution
1957 company to which the Class III net metering facility is interconnected and are located in the
1958 same ISO-NE load zone to receive such credits in amounts attributed to such customers by the
1959 Class III net metering facility. Written notice of the identity of the customers so designated and
1960 the amounts of the credits to be attributed to such customers shall be in a form as the
1961 distribution company shall reasonably require.

1962 (2) If the customer's kilowatt-hour usage exceeds the electricity generated by the Class
1963 III net metering facility during the billing period, the customer shall be responsible for the
1964 balance at the distribution company's applicable rate.

1965

1966 (c) The distribution portion of any Class I, Class II, or Class III net metering credits and
1967 distribution company delivery charges displaced by a Class I, Class II, or Class III net metering
1968 facility shall be aggregated by the distribution company and billed to all customers on an annual
1969 basis through a uniform per kilowatt-hour surcharge or surcharges.

1970

1971 (d) The distribution company shall have 1 or more tariffs, as approved or as may be
1972 approved from time to time by the department, regarding necessary interconnection studies and
1973 the type, costs, and timeframe for installing metering and distribution system upgrades to
1974 accommodate these installations. Such tariffs shall require that all facilities maintain adequate
1975 insurance as required under the tariffs. Distribution companies shall be prohibited from
1976 imposing special fees on Class I, II, or III net metering facilities, such as backup charges and

1977 demand charges, or additional controls, or liability insurance, as long as the facility meets the
1978 other requirements of the interconnection tariff and all relevant safety and power quality
1979 standards.

1980 Prior to providing net metering service under this section, a Class II or III net metering
1981 facility shall provide all necessary information to and cooperate with the distribution utility to
1982 which it is interconnected to enable the distribution utility to obtain the appropriate asset
1983 identification for reporting generation to ISO-NE.

1984 (e) A Class I, II or III net metering facility shall not be: an “electric utility”; “generation
1985 company”; “aggregator” or “supplier”, unless when entered into an agreement with a customer;
1986 “energy marketer”; or “energy broker” within the meaning of those terms as defined in sections
1987 1 and 1F.

1988 (f) The aggregate capacity of net metering shall not exceed 1 per cent of the distribution
1989 company’s peak load. For the purpose of calculating the aggregate capacity, the capacity of a
1990 Solar net metering facility shall be 80 per cent of the facility’s direct current rating at standard
1991 test conditions and the capacity of a Wind net metering facility shall be the nameplate rating.

1992 (g) The department shall promulgate rules and regulations necessary to carry out this
1993 section.

1994

1995 Section 140. A neighborhood net metering facility shall elect net metering as follows:-

1996

1997 (a) If the electricity generated by the neighborhood net metering facility during a billing
1998 period exceeds its kilowatt-hour usage during the billing period, the neighborhood net metering
1999 facility shall be billed for 0 kilowatt-hour usage and the excess neighborhood net metering
2000 credits shall be credited to those customers identified by the neighborhood net metering facility
2001 as being served by the same company to which the neighborhood net metering facility is
2002 interconnected, residing in the same neighborhood in which is neighborhood net metering

2003 facility is located, and have an ownership interest in the neighborhood net metering facility.
2004 The amount of the excess neighborhood net metering credits to be attributed to each such
2005 customer shall be determined by the allocation provided by the neighborhood net metering
2006 facility. Credits may be carried forward by such customers from month to month. Written
2007 notice of the identity of the customers so designated and the allocation of the credits to be
2008 attributed to such customers shall be in such form as the distribution company shall reasonably
2009 require.

2010 (b) The department shall promulgate rules and regulations necessary to carry out this
2011 section, including, but not limited to, further definition of the term “neighborhood” and
2012 limitations on the number of customers that may be designated by neighborhood net metering
2013 facilities to receive neighborhood net metering credits.

2014 Section 141. In all decisions or actions regarding rate designs, the department shall
2015 consider the impacts of such actions including new financial incentives on the successful
2016 development of energy efficiency and on-site generation. Where the scale of on-site generation
2017 would have an impact on affordability for low-income customers, a fully compensating
2018 adjustment shall be made to the low-income rate discount.

2019 Section 142. The department shall continue to remove any impediments to the
2020 development of efficient, low-emissions distributed generation, including combined heat and
2021 power, taking into account the need to appropriately allocate any associated costs in a fair and
2022 equitable manner. For the purposes of this section, “efficient, low-emissions” shall mean an
2023 efficiency of 60 per cent or greater on an annual basis and emissions lower than required by the
2024 department of environmental protection.

2025 Section 143. (a) For the purposes of this section, the term “small municipal renewable
2026 energy generating facility” shall have the following meaning:- a generating unit that is designed
2027 for or capable of operating at a gross capacity of less than 10 megawatts, and that qualifies as a
2028 Class I renewable energy generating source under section 11F of chapter 25A.

2029

2030 (b) Notwithstanding any general or special law to the contrary, a municipality may
2031 design, install, own and operate small municipal renewable energy generating facilities, sell any
2032 electricity generated from such facilities, and sell any other marketable products resulting from
2033 its generation of renewable energy at such facilities, including electronic certificates created to
2034 represent the “generation attributes,” as such term is defined under 225 CMR 14.02, of each
2035 megawatt hour of energy generated by the renewable energy facilities; provided, however, that
2036 no later than 15 days after the initiation of a procurement of services, equipment or materials
2037 related to a small municipal renewable energy generating facility and again not later than fifteen
2038 days after the date that such small municipal renewable energy generating facility first produces
2039 electrical energy, said municipality shall submit a report to the department of public utilities and
2040 the division of energy resources detailing the costs of the small municipal renewable energy
2041 generating facility and the plan and a forecast for the disposition of the facility’s products. The
2042 division of energy resources shall annually issue a report containing information on small
2043 municipal renewable energy generating facilities, including the number, capacity, production,
2044 and performance of such facilities and recommendations, if any, for additional legislative action
2045 to increase the benefits available to municipalities through ownership of renewable energy
2046 generating facilities. The division shall submit such report to the joint committees on
2047 telecommunications, utilities and energy, and the house and senate committees on ways and
2048 means no later than April 30 of each year, including drafts of legislation to implement
2049 recommendations within such report.

2050 (c) A municipality may issue from time to time bonds or notes in order to finance all or a
2051 portion of the costs of small municipal renewable energy generating facility projects authorized
2052 under this section. Notwithstanding any provision of chapter 44 of the General Laws to the
2053 contrary, the maturities of any such bonds issued by a municipality hereunder either shall be
2054 arranged so that for each issue the annual combined payments of principal and interest payable
2055 in each year, commencing with the first year in which a principal payment is required, shall be
2056 as nearly equal as practical in the opinion of the municipal treasurer, or shall be arranged in
2057 accordance with a schedule providing for a more rapid amortization of principal. The first
2058 payment of principal of each issue of bonds or of any temporary notes issued in anticipation of
2059 the bonds, shall be not later than 5 years from the estimated date of commencement of regular

2060 operation of the small municipal renewable energy generating facilities financed thereby, as
2061 determined by the municipal treasurer and the last payment of principal of the bonds shall be
2062 not later than 25 years from the date of the bonds. Indebtedness incurred under this act shall not
2063 be included in determining the limit of indebtedness of the municipality under section 10 of said
2064 chapter 44 but, except as otherwise provided herein, shall be subject to the provisions of said
2065 chapter 44.

2066

2067 (d) A municipality shall procure any services required for the design, installation,
2068 improvement, repair and operation of small municipal renewable energy generating facilities
2069 authorized under this section, and the acquisition of any equipment necessary in connection
2070 therewith, in accordance with the procurement requirements of chapter 30B of the General
2071 Laws, and the municipality may procure any such services and equipment together as one
2072 procurement or as separate procurements thereunder.

2073 (e) A municipality may establish an enterprise fund under section 53F1/2 of chapter 44
2074 of the General Laws for the receipt of all revenues from the operation of small municipal
2075 renewable energy generating facilities authorized under this section to operate and all moneys
2076 received for the benefit of such small municipal renewable energy generating facilities, other
2077 than the proceeds of bonds or notes issued therefore. Such receipts are to be used to pay costs
2078 of operation and maintenance of the small municipal renewable energy generating facilities, to
2079 pay costs of future improvements and repairs thereto, and to pay the principals and interest on
2080 any bonds or notes issued therefore.

2081

2082 SECTION 70. The General Laws are hereby further amended by inserting after chapter
2083 164A the following chapter:-

2084

CHAPTER 164B

2085

REGULATION OF STEAM DISTRIBUTION COMPANIES

2086 Section 1. For purposes of this chapter, the term “department” shall refer to the
2087 department of public utilities.

2088 The department shall have supervision of facilities operated by steam distribution
2089 companies for the sole purpose of ensuring public safety and shall establish reasonable rules and
2090 regulations pertaining to the construction and operation of steam distribution facilities and
2091 equipment used in manufacturing and transporting steam. The department shall keep itself
2092 informed as to the methods, practices, and condition of all facilities and equipment associated
2093 with the distribution of steam, including ducts and conduits, and shall make such examinations
2094 and investigations of the steam distribution system as necessary, including the adequacy of
2095 operation, maintenance and capital improvements to insure safe operation of facilities operated
2096 by a steam distribution company.

2097

2098 Section 2. Each steam distribution company shall file a certified copy of its certificate
2099 of incorporation and bylaws with the department. By March first of each year each company
2100 shall file a report on safety related matters as the department may specify, including but not
2101 limited to number, duration and causes of all steam leakage incidents, distribution system
2102 accidents and service outages, time elapsed between the incident and the return to service
2103 following a repair. The department is authorized to levy fines or penalties against any steam
2104 distribution company for failure to comply with regulations promulgated by the department. In
2105 determining the appropriateness of any fine or penalty, the department shall consider the
2106 seriousness of the violation and the good faith compliance efforts of the steam distribution
2107 company.

2108 Section 3. The department shall provide written notice to attorney general of any
2109 violation of this chapter. The department’s authority shall not diminish the authority of any
2110 municipality to regulate steam distribution, nor shall it diminish the authority of the department
2111 of public safety under chapter 146.

2112 SECTION 71. Section 17B of chapter 271 of the General Laws, as appearing in the
2113 2006 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words “energy, as

2114 defined in paragraph (d) of section twelve of chapter one hundred and fifty-nine”, and inserting
2115 in place thereof the following words:- cable or the department of public utilities.

2116 SECTION 72. Section 22 of chapter 140 of the acts of 2005 is hereby amended by
2117 striking out the words “section 11C of chapter 25” and inserting in place thereof the following
2118 words:- section 11I of chapter 25A.

2119 SECTION 73. Section 23 of said chapter 140 is hereby amended by striking out the
2120 words “section 11C of chapter 25” and inserting in place thereof the following words:- section
2121 11I of chapter 25A.

2122 SECTION 74. Section 1 of chapter 11 of the acts of 2006 is hereby amended by adding
2123 the following subsection:-

2124 (o) Notwithstanding any general or special law to the contrary, local authorities may
2125 amend existing energy service agreements to bring products and services to additional buildings
2126 or assets in the community. The amendments may be accomplished through negotiation with
2127 the selected energy service provider.

2128 SECTION 75. Commencing on July 1, 2008, and continuing for a period of 5 years
2129 thereafter, each distribution company, as defined in section 1 of chapter 164 of the General
2130 Laws, shall be required twice in that 5 year period to solicit proposals from renewable energy
2131 developers and, provided reasonable proposals have been received, enter into cost effective
2132 long-term contracts to facilitate the financing of renewable energy generation within the
2133 jurisdictional boundaries of the commonwealth including state waters, or in adjacent federal
2134 waters. Said distribution companies may also voluntarily solicit additional such proposals over
2135 the 5 year period. The timetable and method for solicitation and execution of such contracts
2136 shall be proposed by the distribution company in consultation with the division of energy
2137 resources and shall be subject to review and approval by the department. This long-term
2138 contracting obligation shall be separate and distinct from the electric distribution companies’
2139 obligation to meet applicable annual Renewable Portfolio Standard, hereinafter referred to as
2140 RPS requirements, set forth in section 11F of chapter 25A of the General Laws.

2141 For purposes of this section, a long-term contract is defined as a contract with a term of
2142 10 to 15 years. In developing the provisions of proposed long term contracts, the distribution
2143 company shall consider multiple contracting methods, including long-term contracts for
2144 Renewable Energy Certificates, hereinafter referred to as RECs, for energy, and for a
2145 combination of both RECs and energy. The electric distribution company shall select a
2146 reasonable method of soliciting proposals from renewable energy developers, which may
2147 include public solicitations, individual negotiations, or other methods. The distribution company
2148 may decline to consider contract proposals having terms and conditions that it determines would
2149 require the contract obligation to place an unreasonable burden on the distribution company's
2150 balance sheet. The distribution company shall consult with the division of energy resources
2151 regarding its choice of contracting methods and solicitation methods. All proposed contracts
2152 shall be subject to department of public utilities review and approval.

2153 The department of public utilities and the division of energy resources each shall adopt
2154 regulations consistent with this section. The regulations shall: (a) allow renewable energy
2155 developers to submit proposals for long-term contracts conforming to the contracting methods
2156 specified in the second paragraph of this section; (b) require that any contracts executed by the
2157 distribution company under such proposals are filed with and approved by the department of
2158 public utilities before they become effective. As part of its approval process, the department of
2159 public utilities shall consider the recommendations of the office of the attorney general relevant
2160 to such contracts, which recommendations shall be submitted to the department within 45 days
2161 following the filing of such contracts with the department. The department of public utilities
2162 shall take into consideration both the potential costs and benefits of such contracts, and shall
2163 approve such contracts only upon a finding that they are a cost effective mechanism for
2164 procuring renewable energy on a long-term basis; (c) provide for an annual remuneration for the
2165 contracting distribution company equal to 4 percent of the annual payments under the contract
2166 to compensate said company for accepting the financial obligation of the long term contract,
2167 such provision to be acted upon by the department of public utilities at the time of contract
2168 approval; and (d) require that the renewable energy generating source to be used by such
2169 developer under such proposal meet the following criteria: (i) have a commercial operation date,
2170 as verified by the division of energy resources, on or after January 1, 2008; (ii) be located within

2171 the jurisdictional boundaries of the commonwealth including state waters, or in adjacent federal
2172 waters; (iii) be qualified by the division of energy resources as eligible to participate in the
2173 Massachusetts RPS program, under section 11F of chapter 25A of the general laws, and to sell
2174 RECs under such program; (iv) be determined by the department to: (1) provide enhanced
2175 electricity reliability within the commonwealth; (2) contribute to moderating system peak load
2176 requirements; (3) be cost effective to Massachusetts electric rate payers over the term of the
2177 contract; and (4) where feasible, create additional employment in the Commonwealth.

2178 The distribution company shall not be obligated to enter into long-term contracts under
2179 this section that would, in the aggregate, exceed 3 per cent of the total energy demand from all
2180 distribution customers of the distribution company in its service territory. As long as the
2181 electric distribution company has entered into long term contracts in compliance with this
2182 section, the electric distribution company shall not be required by regulation or order to enter
2183 into contracts with terms of more than three years in meeting its applicable annual renewable
2184 portfolio standard requirements set forth in section 11F of chapter 25A of the General Laws,
2185 unless the department finds that such contracts are in the best interest of customers, and
2186 provided further that the electric distribution company may execute such contracts voluntarily,
2187 subject to department of public utilities approval.

2188 An electric distribution company may elect to use any energy purchased under such
2189 contracts for resale to its customers, and may elect to retain RECs for purpose of meeting its
2190 applicable annual renewable portfolio standard requirements set forth in section 11F of chapter
2191 25A of the General Laws. If the energy and RECs are not so used, such companies shall sell
2192 such purchased energy into the wholesale spot market, and shall sell such purchased RECs
2193 through a competitive bid process. Notwithstanding the foregoing, the department shall conduct
2194 periodic reviews to determine the impact on the energy and REC markets of the disposition of
2195 energy and RECs hereunder, and may issue reports making recommendations for legislative
2196 changes if it determines that actions are being taken that will adversely affect the energy and
2197 REC markets.

2198 In the event the distribution company sells the purchased energy into the wholesale spot
2199 market and auctions the RECs as described in sixth paragraph, the distribution company shall

2200 net the cost of payments made to projects under the long-term contracts against the proceeds
2201 obtained from the sale of energy and RECs, and the difference shall be credited or charged to all
2202 distribution customers through a uniform fully reconciling annual factor in distribution rates,
2203 subject to review and approval of the department of public utilities. The reconciliation process
2204 shall be designed so that the distribution company recovers all costs incurred under such
2205 contracts.

2206 In the event the RPS requirements of section 11F of chapter 25 should ever terminate,
2207 the obligation to continue periodic solicitations to enter into long-term contracts shall cease,
2208 provided that any contracts already executed and approved by the department of public utilities
2209 shall remain in full force and effect.

2210 On or before July 1, 2010 and annually until the long term contracting requirement
2211 expires the division of energy resources shall assess whether the long-term contracting
2212 requirements set forth in this section reasonably support the renewable energy goals of the
2213 commonwealth as set forth in section 11F of chapter 25A of the General Laws, and whether the
2214 alternative compliance rate established under said section 11F should be adjusted accordingly.

2215 The provisions of this section shall not limit consideration of other contracts for RECs or
2216 power submitted by a distribution company for review and approval by the department of public
2217 utilities.

2218 If any provision of this section is subject to a judicial challenge, the department of public
2219 utilities may suspend the applicability of the challenged provision during the pendency of the
2220 judicial action, until final resolution of the challenge and any appeals, and shall issue such
2221 orders and take such other actions as are necessary to ensure that the provisions that are not
2222 challenged are implemented expeditiously to achieve the public purposes of this provision.

2223 SECTION 76. On or before September 1, 2008, each electric distribution utility shall
2224 propose to the department of public utilities an “energy pay and save”, hereinafter referred to as
2225 EPS pilot program, allowing electric utility customers to purchase and install renewable energy
2226 products in their residences or commercial facilities, by paying the cost of the system over time
2227 through an additional charge on the customer's electricity bill. The cost of the products

2228 purchased under the pilot program shall be added to the electric utility customer's utility bills in
2229 a form approved by the department, as a monthly EPS tariff, and shall be paid until the cost of
2230 purchase and installation of the products is paid off. The payment structure shall be
2231 implemented so that the charge on the electric utility customer's utility bill shall be less than the
2232 energy savings of that customer over the course of each given year. Non-payment by the owner
2233 of the EPS tariff shall result in disconnection, and a utility shall be entitled to recover the debt.

2234

2235 The pilot program shall be established with a minimum of 50 participants and a
2236 maximum of 200 participants. The maximum project size for the program shall be \$1,000 for
2237 commercial utility customers and \$500 for residential utility customers. Portable electrical cost
2238 measures shall not be funded. Quick pay options shall be investigated, allowing customers to
2239 have the option to pay off the entire balance of the amount financed on the first billing cycle.
2240 The program shall be funded from such sources as determined by the secretary and such funds
2241 shall be used to offset the cost of the program for the utilities, and as such payments for the
2242 purchases are paid to said utilities.

2243 The pilot program shall be implemented on or before June 1, 2008 and shall expire on
2244 December 31, 2008. The secretary and the department shall issue a final report, which shall
2245 include the results of its review and analysis, to the joint committee on telecommunications,
2246 utilities and energy, and the house and senate committees on ways and means on or before June
2247 1, 2009.

2248 SECTION 77. On or before September 1, 2008, each electric distribution company shall
2249 file a proposed plan with the department of public utilities to establish a 6 month pilot program
2250 for a "smart grid" that utilizes the electric delivery system, advanced ("smart") meters, and
2251 other advanced technology to operate an integrated grid network communication system in a
2252 limited geographic area. Each smart grid pilot program shall include, but not be limited to
2253 advanced ("smart") meters that provide real time measurement and communication of energy
2254 consumption, implementation of phone and e-mail notification systems to warn those customers
2255 of high prices so they can reduce their usage accordingly, automated load management systems

2256 embedded within current demand-side management programs and remote status detection and
2257 operation of distribution system equipment. On or before September 1, 2008, each electric
2258 distribution company shall file a proposal with the department of public utilities to implement a
2259 6 month pilot program that requires time of use or hourly pricing for commodity service for a
2260 minimum of 0.5 per cent of the company's customers. A specific objective of the pilot would
2261 be to reduce, for those customers who actively participate in the pilot, peak loads by a minimum
2262 of 5 per cent. The programs filed by the distribution company shall include proposals for rate
2263 treatment of incremental program costs; provided that such program costs may be deemed by
2264 the department to be a cost of basic service and recovered in rates charged for basic service.
2265 The department of public utilities shall review and approve or modify such plans on or before
2266 January 1, 2009. Plans which provide for larger numbers of customers and can show higher bill
2267 savings than outlined above would be eligible to earn incentives as outlined in an approved
2268 plan. Following the completion of the pilot programs, the secretary of energy and
2269 environmental affairs shall submit a report to the joint committee on telecommunications,
2270 utilities and energy no later than February 1, 2010 detailing the operation and results of such
2271 programs, including information concerning changes in consumer's energy use patterns, any
2272 identified disincentives to the deployment of smart grid systems throughout the Commonwealth,
2273 an assessment of the value of the program to both participants and non-participants, and
2274 recommendations concerning modification or expansion of the programs and further
2275 deployment and implementation.

2276

2277 SECTION 78. The department of public utilities shall direct all distribution companies,
2278 as defined in section 1F of chapter 164 of the General Laws, to submit a plan within 60 days of
2279 the effective date of this Act providing for retail access to competitive sellers of renewable
2280 energy generation attributes, whether or not bundled with electricity. The department shall
2281 approve or modify such plan after an opportunity for notice and comment by all interested
2282 persons, and shall ensure that such plan does not provide said distribution companies with a
2283 market advantage over competitive suppliers of renewable energy generation attributes;
2284 provided however, if a distribution company provides retail access to competitive sellers of

2285 renewable energy generation attributes prior to the effective date of this act, it shall not be
2286 required to file a plan under this section.

2287 SECTION 79. There is hereby established a special commission to consist of 3
2288 members of the senate, 1 of whom shall be the senate chair of the joint committee on
2289 telecommunications, utilities and energy who shall serve as co-chair of the commission, and 1
2290 of whom shall be appointed by the Senate Minority Leader; and 3 members of the house of
2291 representatives, 1 of whom shall be the house chair for the joint committee on
2292 telecommunications, utilities and energy who shall serve as co-chair of the commission, and 1
2293 of whom shall be appointed by the House Minority Leader; the commissioner of the division of
2294 energy resources or a designee, the secretary of energy and environmental affairs or a designee
2295 and 3 persons to be appointed by the governor, 1 of whom shall be a representative of the waste-
2296 to-energy industry, and 1 of whom shall be a representative of a consumer advocacy
2297 organization, for the purpose of making an investigation and study relative to the burning of
2298 commercial and demolition waste as it relates to the Massachusetts Renewable Energy Portfolio
2299 Standard Program, established by section 11F of chapter 25A of the General Laws. Said
2300 commission shall report the results of its investigation and study and its recommendations, if
2301 any, together with drafts of legislation necessary to carry its recommendations into effect by
2302 filing the same with the clerks of the senate and the house of representatives on or before July 1,
2303 2008.

2304

2305 SECTION 80. The division of energy resources shall establish a pilot program,
2306 hereinafter referred to as the HEAT Loan Program, to assist consumers with the purchase of
2307 energy efficient items for residential home modifications. For the purposes of this program,
2308 energy efficient items shall include home insulation, new window installation, advanced
2309 programmable thermostats, micro-combined heat and power systems, fuel efficient furnaces,
2310 boilers, oil, gas, propane, or electric heating systems, solar domestic or fuel efficient hot water
2311 systems, materials for insulation or sealing of a duct, attic, basement, rim joint or wall and pipe
2312 insulation for heating systems or other retail items for use in a residential dwelling that increase
2313 the energy efficiency of said dwelling.

2314

2315 In establishing the program, the division shall develop a list of qualified state or
2316 federally chartered banking institutions or credit unions that do business in the commonwealth
2317 and that are governed by chapter 167 or 171 of the General Laws as participatory lending
2318 institutions. For the purposes of this section, a qualified lending institution shall include a
2319 lending institution, as described herein that is certified by the executive office and which shall
2320 offer zero and low interest loans for the purpose of enhancing the energy efficiency of a
2321 residential dwelling. The program shall be funded from that portion of the mandatory charge
2322 that is authorized by this section and allocated to residential customers consistent with section
2323 19 of chapter 25 of the General Laws; provided, however, that not less than \$5,000,000 shall be
2324 made available to assist participating financial institutions in offering said loan products by or
2325 through interest rate write downs or other credit enhancement features; and provided, further,
2326 that loans offered under the program shall be offered to residential homeowners in the
2327 commonwealth solely for the purposes stated herein. The division shall make such loans
2328 available for purchases made on or after January 1, 2009, but not later than December 31, 2009.
2329 The division shall establish the rules and guidelines to carry out the purposes of this section,
2330 including, but not limited to, establishing applicant criteria, application forms and procedures,
2331 and energy efficiency product requirements and lending institution tracking and reporting
2332 requirements. The division shall submit a report detailing the rules and guidelines and the
2333 program results to the joint committee on telecommunications, utilities and energy not later than
2334 June 30, 2010.

2335 SECTION 81. On or before January 1, 2011, the department of public utilities, in
2336 consultation with the division of energy resources, shall file a report on the effectiveness of the
2337 programs administered under section 19 of chapter 25 of the General Laws. Said report shall
2338 include a financial account of all funds incurred by and administered under the section, and any
2339 recommendations deemed appropriate by the department, including but not limited to the
2340 increase, reduction, or elimination of any mandatory charges authorized under section 19 of
2341 chapter 25 as they may relate to programs and plans under sections 21 and 22 of chapter 25 of
2342 the general laws; provided, however, that any recommendation for reduction or elimination
2343 should include a mechanism to ensure continued adequate funding for comprehensive low

2344 income demand-side management and education programs. Said report shall be filed with the
2345 house and senate clerks who shall forward the same to the house and senate committees on
2346 ways and means and the joint committee on telecommunications, utilities and energy.

2347

2348 SECTION 82. The department of public utilities shall hold a public hearing and issue a
2349 report, no later than July 1, 2008, relative to the replacement of meters for measuring electricity
2350 and gas to customers and the maintenance and improvements of gate boxes located in the
2351 streets, roads or sidewalks to be repaired by electric companies, gas companies and municipal
2352 lighting plants. The report shall include an evaluation of the frequency of replacements of
2353 meters and maintenance of gate boxes, the standards and practices employed by distribution
2354 companies and municipal lighting plants to determine when replacement of meters and
2355 maintenance of gate boxes is necessary, and rate impacts and cost benefit analysis of installing
2356 advanced metering technology. The department shall report to the committees on ways and
2357 means and the joint committee on telecommunications, utilities and energy its recommendations
2358 and proposed legislation, if any.

2359 SECTION 83. Notwithstanding any general or special law to the contrary, the division
2360 of energy resources shall make available monies from amounts collected through "Alternative
2361 compliance payments" established and administered under 225 CMR 14.00 promulgated under
2362 section 11F of chapter 25A, in the form of grants, or other financial incentives, for the
2363 following: (i) state colleges in the Commonwealth engaged in developing renewable energy
2364 generation projects, energy generation demonstration and educational programs, or applied
2365 engineering teaching tools pertaining to energy generation; (ii) Commonwealth based
2366 companies engaged in developing flywheel energy storage technologies; and (iii) to fund capital
2367 investments in new and existing generation units for the use of department of environmental
2368 protection approved Beneficial Use Determination paper derived fuels manufactured by
2369 Massachusetts corporations.

2370 SECTION 84. Notwithstanding any provision of any general or special law to the
2371 contrary, when any political subdivision of the Commonwealth, including any city or town, any

2372 state or community college, any executive branch agency, department, board, bureau, office or
2373 commission, any state authority, or any other state public instrumentality created by an act of
2374 the General Court that plans any renewable energy project consistent with the goals established
2375 by Executive Order 484 dated April 18, 2007, and plans on commencing such project upon real
2376 estate owned or controlled by the Commonwealth or under the custody or control of the division
2377 of capital asset management, or of any state agency or authority, the proponent of the project
2378 and the Commonwealth, or applicable agency or authority, shall enter into a memorandum of
2379 understanding for a long-term lease agreement establishing the terms and conditions upon
2380 which such project may be built or implemented upon such real estate.

2381

2382 SECTION 85. The department of public utilities, in consultation with the division of
2383 energy resources, shall review and assess the effects of allowing electric and distribution
2384 companies to construct, own, or operate renewable generation facilities under subsection (f) of
2385 section 1A of chapter 164 of the General Law. This report shall be completed and filed with the
2386 joint committee on telecommunications, utilities, and energy, and the house and senate
2387 committees on ways and means, and the clerks of the senate and house of representatives not
2388 later than June 30, 2011. This report shall include any legislative and regulatory
2389 recommendations including but not limited to continuation, expansion, or elimination of any
2390 provisions of this program under subsection (f).

2391 SECTION 86. The division of of energy resources in consultation with the division of
2392 capital asset management shall establish, not later than July 1, 2008, a methodology for use by
2393 agencies in assessing life-cycle costs that includes the requirements and assumptions set forth in
2394 subsections (a) and (b) of section 39D of chapter 7 of the General Laws.

2395 SECTION 87. On or before December 31, 2008, the energy advisory council appointed
2396 under section 22 of chapter 25 of the general laws shall undertake, using third party experts, a
2397 study which examines the energy efficiency and demand response programs in the
2398 Commonwealth, including all public and private funding sources. The study shall include an

2399 audit of all existing energy efficiency and demand response programs to identify the costs and
2400 benefits associated with such programs.

2401 SECTION 88. Not later than September 1, 2008, the department of public utilities shall
2402 establish terms and conditions under which a participating non-utility competitive supplier may
2403 be included in the program described in section 1D of chapter 164 of the general laws.

2404 SECTION 89. Notwithstanding any general or special law to the contrary, the
2405 Massachusetts Technology Park Corporation shall, on or before July 1, 2008, submit to the
2406 house and senate committees on ways and means and the joint committees on
2407 telecommunications, utilities and energy and economic development and emerging technologies
2408 an update of the detailed plan described in paragraph (d) of section 4E of chapter 40J of the
2409 general laws setting forth a 5-year strategic plan for the Massachusetts Renewable Energy Trust
2410 Fund and its administration. Said strategic plan for the fund and its administration shall be
2411 developed in consultation with the oversight board described in paragraph (i) of said section 4E
2412 and shall contain said oversight board's comments.

2413

2414 SECTION 90. Section 48 shall take effect on June 30, 2012.

2415

2416 SECTION 91. Section 4 shall take effect 1 year from enactment of this act.

2417 SECTION 92. Section 71 shall take effect as of April 10, 2007.

2418 SECTION 93. Sections 37 and 38 shall be effective for tax years beginning on or after
2419 January 1, 2008 and before January 1, 2018.

2420 SECTION 94. Subsection (m) as added by Section 44 shall take effect 6 months from
2421 enactment of this Act.