

HOUSE No. 3159

The Commonwealth of Massachusetts

PRESENTED BY:

Dylan A. Fernandes

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

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

An Act relative to electric utility climate resilience and microgrids.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/18/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/16/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>2/27/2023</i>

HOUSE No. 3159

By Representative Fernandes of Falmouth, a petition (accompanied by bill, House, No. 3159) of Dylan A. Fernandes, Patrick Joseph Kearney and Simon Cataldo relative to electric utility climate resilience and microgrids. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to electric utility climate resilience and microgrids.

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 25 of the General Laws is hereby amended by inserting after
2 Section 23 the following section:

3 Section 24. (a) The department of public utilities shall require electric distribution and
4 transmission companies to prepare and file a climate vulnerability and resilience plan by
5 December 31, 2024, and at least once every five years thereafter based on best available data.
6 Climate vulnerability and resilience plans shall both identify existing vulnerabilities in the
7 system that must be adapted to climate change-induced threats as well as plan proactively for
8 future climate conditions to ensure the system can absorb and withstand impacts. Climate
9 vulnerability and resilience plans shall prioritize, to the maximum extent practicable, adaptation
10 measures that (i) promote the preservation, protection, restoration, and enhancement of the
11 commonwealth’s natural infrastructure through nature-based solutions, as defined in section 1 of
12 chapter 21N, and (ii) account for the existing natural, built and economic characteristics of the

13 commonwealth's most vulnerable areas and human populations. Adaptation measures that
14 include the use of hard-engineered, hardscape, or gray infrastructure features shall be supported
15 by evidence that the measures will not cause or exacerbate negative environmental impacts and
16 that alternative green or green and gray hybrid solutions are not feasible.

17 (b) Climate vulnerability and resilience plans shall include, at a minimum, (i) an
18 evaluation of the climate science and projected extreme weather and other climate-related risks
19 for the service territory including changes in temperature extremes, humidity, precipitation, sea
20 level rise, and extreme storms, (ii) an evaluation and risk assessment of potential impacts of
21 climate change on existing operation, planning, and physical assets, including any design and
22 construction standards or maintenance and operations practices that require changes to address
23 current and future climate conditions as it relates to reliability and resilience of the grid, (iii) an
24 evaluation of the vulnerability of existing infrastructure based on location and whether and when
25 certain facilities may require retrofitting or relocation, (iv) identification and prioritization of
26 adaptation options to increase asset and system-wide resilience over time, (v) an evaluation of
27 costs and benefits against a range of possible future scenarios and adaptation options, and (vi) an
28 implementation timeline, including benchmarks over time, for making changes in line with the
29 findings of the study such as modifying design and construction standards, modifying operations
30 and planning processes, and upgrades to existing infrastructure to ensure reliability and resilience
31 of the grid.

32 (c) Climate vulnerability and resilience plans shall be prepared in collaboration with
33 communities most impacted by the effects of climate change within the company's service area,
34 including environmental justice populations, as defined in section 30 of chapter 62, and shall
35 include a community engagement plan that includes, at a minimum, (i) identification and

36 description of any environmental justice populations in the service area, and any community
37 based environmental justice organizations in the service area, (ii) outreach goals and targets,
38 including at least two public meetings planned in collaboration with representatives from
39 identified environmental justice populations and community based organizations, (iii) assessment
40 of past engagement goals shortfalls or deficiencies, and updates and remedies to ensure shortfalls
41 or deficiencies are not repeated.

42 (d) The department of public utilities shall require, in any ratemaking proceeding
43 pursuant to sections seventy-six, ninety-three, and ninety-four of chapter one hundred and sixty-
44 four, that electric companies identify in priority order the climate risks to its facilities that will
45 arise over the projected useful life of such facilities or thirty years, whichever is greater, in
46 accordance with climate vulnerability and resilience plans as required by subsection (a). The
47 companies shall present evidence documenting their evaluation of climate risks and measures
48 addressing such climate risks based on the best available climate science, data and other
49 evidence in the record before the agency and shall identify how their operating and capital
50 budgets address such climate risks. The companies shall also (i) consider and present evidence
51 addressing likely climate change risks scenarios for its utility infrastructure in relation to the
52 infrastructure's criticality and risk tolerance, and (ii) disclose in all design engineering,
53 architectural, or other drawings and analyses the climate assumptions used in evaluating and
54 addressing climate risks.

55 (e) In adjudicating ratemaking proceedings pursuant to sections seventy-six, ninety-
56 three, and ninety-four of chapter one hundred and sixty-four, the department of public utilities
57 shall determine whether the applicant's costs proposed or incurred for capital investment projects
58 include consideration and minimization of climate risks for the useful life of the proposed

59 investment or thirty years, whichever is greater. In considering climate risks, the department of
60 public utilities shall consult the most recent climate vulnerability and resilience plan on file for
61 the applicant and projected climate change risk based on best available data. The department of
62 public utilities may take into consideration whether the applicant has made progress in
63 implementing its climate vulnerability and resilience plan and whether the applicant's costs
64 proposed or incurred for capital investment projects are consistent with the plan. The department
65 of public utilities shall conclude in writing that the applicant's costs are appropriate based on the
66 risk tolerance of the project or facility. Any electric company failing to file its climate
67 vulnerability and resilience plan may be fined \$500 for each day during which such failure
68 continues. The fines levied by the department shall be returned to ratepayers through distribution
69 rates.

70 (f) The department of public utilities shall promulgate such rules and regulations as
71 are necessary to promptly and effectively enforce the provisions of section twenty-four.”

72 SECTION 2. Subsection (a) of section 85B of chapter 164 of the General Laws is hereby
73 amended by striking out paragraphs (7) and (8) and inserting in place thereof the following:

74 (7) identification of additional supplies and equipment needed during an emergency
75 and the means of obtaining additional supplies and equipment;

76 (8) designation of a call center in the commonwealth for service assistance for the
77 duration of an emergency or until full service is restored, whichever occurs first. The call center
78 shall be staffed continuously for the duration of the emergency and to ensure sufficient staffing
79 levels to handle all customer calls; and

80 (9) a description of how the company is implementing its climate vulnerability and
81 resilience plan in its response to emergency events and in its efforts to minimize the effects of
82 extreme weather on the company’s infrastructure and operations, including disruptions to
83 service.

84 SECTION 3. Chapter 164 of the General Laws is hereby amended with the addition of a
85 new Section following Section 1K:

86 Section 1L. Distributed energy services; Microgrid operations

87 For the purposes of climate resiliency and mitigation, reliability, and encouragement of
88 installation of distributed electricity generation and storage capacity, no right to exclusive service
89 or franchise established within Section 1B or elsewhere in this chapter shall prevent a
90 municipality, or agencies of the Commonwealth or private electric customers in coordination
91 with a municipality, within an electric or gas company’s service territory, from:

92 (a) establishing an energy microgrid or district energy system;

93 (b) sharing electric generation or storage resources among facilities that are
94 contiguous and owned by the same utility customer, irrespective of the number of electric meters
95 installed at such facilities; or

96 (c) using public rights of way to conduct electrical conduit or other energy resources
97 point to point where the municipality deems there is benefit from sharing energy resources.