

**HOUSE . . . . . No. 3315**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Thomas A. Golden, Jr.*

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

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

An Act relative to clean energy resources.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>2/19/2021</i>

**HOUSE . . . . . No. 3315**

By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 3315) of Thomas A. Golden, Jr. relative to clean energy resources. Telecommunications, Utilities and Energy.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act relative to clean energy resources.

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

1 SECTION 1. Section 83B of chapter 169 of the acts of 2008, as amended by chapter 188  
2 of the acts of 2016, is hereby further amended by striking out, in line 1, the words “83C and  
3 83D” and inserting in place thereof the following words:- 83C, 83D, and 83E

4 SECTION 2. Section 83B of Chapter 169, as so appearing, is hereby further amended by  
5 striking out the definition of “clean energy generation” and inserting in place thereof the  
6 following definition:-

7 “Clean energy generation”, (i) new Class I renewable portfolio standard eligible  
8 resources, including but not limited to offshore wind energy generation; (ii) hydroelectric  
9 generation; or (iii) any combination of new Class I RPS eligible resources, hydroelectric  
10 generation, or energy storage.

11 SECTION 3. Said section 83B of chapter 169, as so appearing, is hereby further amended  
12 by inserting after the word “83D,” in line 12, the following words:- or 83E.

13 SECTION 4. Subsection (c) of Section 83C, as so appearing, is hereby amended by  
14 inserting after the first sentence, the following new sentence:-

15 The distribution companies shall also consider terms and conditions that require all clean  
16 energy certificates from the proposed offshore wind energy generation resources to be delivered  
17 to the distribution companies for the entirety of the useful life of the proposed offshore wind  
18 energy generation resources.

19 SECTION 5. Clause (3) of subsection (d) of Section 83C, as so appearing, is hereby  
20 amended by inserting after the words “long term contract,” the following:-

21 except that the contracting distribution company may not seek remuneration for  
22 agreements, terms, or conditions for delivery of clean energy certificates that exceed the term  
23 length of the long-term contract,

24 SECTION 6. Said chapter 169, as amended by chapter 188 of the acts of 2016, is hereby  
25 further amended by inserting after section 83D the following section:-

26 Section 83E. (a) For the purposes of this section, “clean energy generation” shall mean:  
27 (i) new Class I renewable portfolio standard eligible resources, including but not limited to  
28 offshore wind energy generation; (ii) hydroelectric generation; or (iii) any combination of new  
29 Class I RPS eligible resources, hydroelectric generation, or energy storage. In order to facilitate  
30 the financing of clean energy generation resources, not later than December 31, 2030, every  
31 distribution company shall jointly and competitively solicit proposals for clean energy generation  
32 and, provided that reasonable proposals have been received, shall enter into cost-effective long-  
33 term contracts for clean energy generation for an annual amount of electricity up to  
34 approximately 9,450,000 megawatt-hours. Long-term contracts executed pursuant to this section

35 shall be subject to the approval of the department of public utilities and shall be apportioned  
36 among the distribution companies under this section.

37 (b) The timetable and method for solicitation of long-term contracts shall be proposed  
38 jointly by the distribution companies and the department of energy resources and shall be subject  
39 to review and approval by the department of public utilities. The distribution companies, in  
40 coordination with the department of energy resources, shall consult with the attorney general's  
41 office regarding the choice of solicitation method. A solicitation may be coordinated and issued  
42 jointly with other New England states or entities designated by those states. The distribution  
43 companies may conduct 1 or more competitive solicitations through a staggered procurement  
44 schedule developed by the distribution companies and the department of energy resources;  
45 provided, that the schedule shall ensure that, as needed in conjunction with any regional or multi-  
46 state competitive market procurements for clean energy generation resources that are authorized  
47 pursuant to said chapter 169, as amended by chapter 188 of the acts of 2016, the distribution  
48 companies enter into cost-effective long-term contracts for the delivery of clean energy  
49 generation up to approximately 9,450,000 megawatt-hours by December 31, 2035. Proposals  
50 received pursuant to a solicitation under this section shall be subject to review by the department  
51 of energy resources. If the department of energy resources, in consultation with the distribution  
52 companies and the independent evaluator, determines that reasonable proposals were not  
53 received pursuant to a solicitation, the department may terminate the solicitation, and may  
54 require additional solicitations to fulfill the requirements of this section.

55 (c) In developing proposed long-term contracts, the distribution companies shall  
56 consider long-term contracts for clean energy certificates for energy and for a combination of  
57 both clean energy certificates and energy, if applicable. The distribution companies shall also

58 consider terms and conditions that require all clean energy certificates from the proposed clean  
59 energy generation to be delivered to the distribution companies for the entirety of the useful life  
60 of the proposed clean energy generation resources. A distribution company may decline to  
61 pursue a proposal if the proposal's terms and conditions would require the contract obligation to  
62 place an unreasonable burden on the distribution company's balance sheet; provided, however,  
63 that the distribution company shall take all reasonable actions to structure its contracts pricing or  
64 administration of the products purchased to mitigate impacts on the balance sheet or income  
65 statement of the distribution company or its parent company, subject to the approval of the  
66 department of public utilities; provided further, that mitigation shall not increase costs to  
67 ratepayers. If a distribution company deems all proposals to be unreasonable, the distribution  
68 company shall, within 20 days of the date of its decision, submit a filing to the department of  
69 public utilities. The filing shall include, in the form and detail prescribed by the department of  
70 public utilities, documentation supporting the distribution company's decision to decline the  
71 proposals. Following a distribution company's filing, and within 4 months of the date of filing,  
72 the department of public utilities shall approve or reject the distribution company's decision and  
73 may order the distribution company to reconsider any proposal. If distribution companies are  
74 unable to agree on a winning bid following a solicitation under this section, the matter shall be  
75 submitted to the department of energy resources which shall, in consultation with the  
76 independent evaluator, issue a final, binding determination of the winning bid; provided that the  
77 final contract executed shall be subject to review by the department of public utilities. The  
78 department of energy resources may require additional solicitations to fulfill the requirements of  
79 this section.

80 (d) The department of public utilities shall promulgate regulations consistent with this  
81 section. The regulations shall: (1) allow developers of clean energy generation resources to  
82 submit proposals for long-term contracts; (2) require that contracts executed by the distribution  
83 companies under such proposals are filed with, and approved by, the department of public  
84 utilities before they become effective; (3) provide for an annual remuneration for the contracting  
85 distribution company of 2.5 per cent of the annual payments under the contract to compensate  
86 the company for accepting the financial obligation of the long-term contract, except that the  
87 contracting distribution company may not seek remuneration for agreements, terms, or  
88 conditions for delivery of clean energy certificates that exceed the term length of the long-term  
89 contract, such provision to be acted upon by the department of public utilities at the time of  
90 contract approval; (4) require associated transmission costs to be incorporated into a proposal;  
91 provided that, to the extent there are transmission costs included in a bid, the department of  
92 public utilities may authorize or require the relevant parties to seek recovery of such transmission  
93 costs of the project through federal transmission rates, consistent with policies and tariffs of the  
94 Federal Energy Regulatory Commission, to the extent the department finds such recovery is in  
95 the public interest; and (5) require that the clean energy resources to be used by a developer  
96 under the proposal meet the following criteria: (i) provide enhanced electricity reliability within  
97 the commonwealth; (ii) are cost effective to electric ratepayers in the commonwealth over the  
98 term of the contract taking into consideration potential economic and environmental benefits to  
99 the ratepayers; (iii) avoid line loss and mitigate transmission costs to the extent possible and  
100 ensure that transmission cost overruns, if any, are not borne by ratepayers; (iv) allow long-term  
101 contracts for clean energy generation resources to be paired with energy storage systems; (v)  
102 adequately demonstrate project viability in a commercially reasonable timeframe; and (vi) where

103 feasible, create and foster employment and economic development in the commonwealth. The  
104 department of energy resources shall give preference to proposals that demonstrate a benefit to  
105 low-income ratepayers in the commonwealth without adding cost to the project.

106 (e) A proposed long-term contract shall be subject to the review and approval of the  
107 department of public utilities. As part of its approval process, the department of public utilities  
108 shall consider recommendations by the attorney general, which shall be submitted to the  
109 department of public utilities within 45 days following the filing of such contracts with the  
110 department of public utilities. The department of public utilities shall consider both the potential  
111 costs and benefits of such contracts and shall approve a contract only upon a finding that it is a  
112 cost effective mechanism for procuring low cost clean energy generation on a long-term basis  
113 taking into account the factors outlined in this section.

114 (f) The department of energy resources and the attorney general shall jointly select,  
115 and the department of energy resources shall contract with, an independent evaluator to monitor  
116 and report on the solicitation and bid selection process in order to assist the department of energy  
117 resources in determining whether a proposal received pursuant to subsection (b) is reasonable  
118 and to assist the department of public utilities in its consideration of long-term contracts or filed  
119 for approval. To ensure an open, fair and transparent solicitation and bid selection process that is  
120 not unduly influenced by an affiliated company, the independent evaluator shall: (1) issue a  
121 report to the department of public utilities analyzing the timetable and method of solicitation and  
122 the solicitation process implemented by the distribution companies and the department of energy  
123 resources under subsection (b) and include recommendations, if any, for improving the process;  
124 and (2) upon the opening of an investigation by the department of public utilities into a proposed  
125 long-term contract for a winning bid proposal, file a report with the department of public utilities

126 summarizing and analyzing the solicitation and the bid selection process, and providing its  
127 independent assessment of whether all bids were evaluated in a fair and non-discriminatory  
128 manner . The independent evaluator shall have access to all information and data related to the  
129 competitive solicitation and bid selection process necessary to fulfill the purposes of this  
130 subsection but shall ensure all proprietary information remains confidential. The department of  
131 public utilities shall consider the findings of the independent evaluator and may adopt  
132 recommendations made by the independent evaluator as a condition for approval. If the  
133 independent evaluator concludes in the findings that the solicitation and bid selection of a long-  
134 term contract was not fair and objective and that the process was substantially prejudiced as a  
135 result, the department of public utilities shall reject the contract.

136 (g) The distribution companies shall each enter into a contract with the winning  
137 bidders for their apportioned share of the market products being purchased from the project. The  
138 apportioned share shall be calculated and based upon the total energy demand from all  
139 distribution customers in each service territory of the distribution companies.

140 (h) An electric distribution company may elect to use any energy purchased under  
141 such contracts for resale to its customers, and may elect to retain clean energy certificates to  
142 meet any applicable annual portfolio standard requirements, including section 11F of said  
143 chapter 25A, and other clean energy compliance standards as applicable. If the energy and clean  
144 energy certificates are not so used, such companies shall sell such purchased energy into the  
145 wholesale market and shall sell such purchased clean energy certificates attributed to any  
146 applicable portfolio standard eligible resources to minimize the costs to ratepayers under the  
147 contract. The department of energy resources shall conduct periodic reviews to determine the  
148 impact on the energy and clean energy certificate markets of the disposition of energy and clean



149 energy certificates under this section and may issue reports recommending legislative changes if  
150 it determines that actions are being taken that will adversely affect the energy and clean energy  
151 certificate markets.

152 (i) If a distribution company sells the purchased energy into the wholesale spot  
153 market and auctions the clean energy certificates as described in this section, the distribution  
154 company shall net the cost of payments made to projects under the long-term contracts against  
155 the net proceeds obtained from the sale of energy and clean energy certificates, and the  
156 difference shall be credited or charged to all distribution customers through a uniform fully  
157 reconciling annual factor in distribution rates, subject to review and approval of the department  
158 of public utilities.

159 (j) A long-term contract procured under this section shall utilize an appropriate  
160 tracking system to ensure a unit specific accounting of the delivery of clean energy, to enable the  
161 department of environmental protection, in consultation with the department of energy resources,  
162 to accurately measure progress in achieving the commonwealth's goals under chapter 298 of the  
163 acts of 2008 or chapter 21N of the General Laws.

164 (k) The department of energy resources and the department of public utilities may  
165 jointly develop requirements for a bond or other security to ensure performance with  
166 requirements under this section.

167 (l) The department of energy resources may promulgate regulations necessary to  
168 implement this section.

169 (m) If this section is subjected to a legal challenge, the department of public utilities  
170 may suspend the applicability of the challenged provision during the pendency of the action until

171 a final resolution, including any appeals, is obtained and shall issue an order and take other  
172 actions as are necessary to ensure that the provisions not subject to the challenge are  
173 implemented expeditiously to achieve the public purposes of this section.