

SENATE No. 02140

[Senate, February 14, 2012 – New draft reported from the committee on Ways and Means for Senate, No. 2136.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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An Act relative to the emergency service response of public utility companies.

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 24A of the General Laws is hereby amended by inserting after
2 section 3 the following section:-

3 Section 3A. The director may make an annual assessment against each electric, gas,
4 telephone and telegraph company doing business in the commonwealth and subject to the
5 supervision of the department of public utilities or the department of telecommunications and
6 cable for the purpose of providing funds to the Massachusetts emergency management agency
7 for the creation of an internet-based emergency operations center to connect municipalities with
8 the agency during a declaration of emergency. The assessment shall be made at a rate that shall
9 be determined and certified annually by the director as sufficient to produce an annual amount of
10 not less than \$1,000,000, and shall be assessed proportionately against each company on the
11 basis of the intrastate operating revenues of each company. Notwithstanding any general or
12 special law to the contrary, no electric company may seek recovery of any assessments made

13 under this paragraph in any rate proceeding before the department of public utilities. Each
14 company shall pay the amount assessed against it within 30 days after the date of the notice of
15 assessment from the office. The Massachusetts emergency management agency shall utilize the
16 assessments solely for the purpose of establishing an internet-based system of communication by
17 which municipalities can coordinate emergency response efforts for electric, gas and telephone
18 service restoration during an emergency event.

19 SECTION 2. Subsection (a) of section 4C of chapter 25 of the General Laws, as
20 appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 11-12, the
21 words “who serves less than 100,000 customers in the commonwealth”.

22 SECTION 3. Said section 4C of said chapter 25, as so appearing, is hereby further
23 amended by striking out subsection (j).

24 SECTION 4. Said chapter 25 is hereby further amended by inserting after section 12O
25 the following section:-

26 Section 12P. There shall be established upon the books of the commonwealth a separate
27 fund to be known as the Department of Public Utilities Storm Trust Fund. There shall be credited
28 to this fund all amounts collected under the third paragraph of section 18 and any income derived
29 from the investment of amounts credited to the fund. All amounts credited to the fund shall be
30 held in trust and shall be available for expenditure, without further appropriation, by the
31 department of public utilities, for activities of the department in investigating the preparation for
32 and responses to storm and other emergency events by the electric companies. Any unexpended
33 balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for
34 expenditure in the following fiscal year.

35 SECTION 5. Section 18 of said chapter 25, as appearing in the 2010 Official Edition, is
36 hereby amended by inserting after the second paragraph the following paragraph:-

37 For the purpose of providing the department with additional operating funds for activities
38 of the department in investigating the preparation for and responses to storm and other
39 emergency events by the electric companies doing business in the commonwealth, the
40 commission may make a separate assessment proportionally against each electric company under
41 the jurisdictional control of the department, based upon the intrastate operating revenues subject
42 to the jurisdiction of the department of each of the companies derived from sales within the
43 commonwealth of electric service, as shown in the annual report of each of the companies to the
44 department. This assessment shall be made at a rate that shall be determined and certified
45 annually by the commission as sufficient to produce an annual amount of not less than \$460,000,
46 commencing in fiscal year 2012, plus the costs of fringe benefits and indirect costs as established
47 by the commissioner of administration under section 5D of chapter 29, including group life and
48 health insurance, retirement benefits, paid vacations, holidays and sick leave. The amount of the
49 assessment may be increased by the commission annually by a rate not to exceed the most recent
50 annual consumer price index as calculated for the northeast region for all urban consumers.
51 Notwithstanding any general or special law to the contrary, no electric company may seek
52 recovery of any assessments made under this paragraph in any rate proceeding before the
53 department. Each company shall pay the amount assessed against it within 30 days after the date
54 of the notice of assessment from the department. Such assessments shall be collected by the
55 department and credited to the Department of Public Utilities Storm Trust Fund established in
56 section 12P.

57 SECTION 6. Chapter 164 of the General Laws is hereby amended by inserting after
58 section 1J the following section:-

59 Section 1K. Any penalty levied by the department against an investor-owned electric
60 distribution, transmission or natural gas distribution company for any violation of the
61 department's standards of acceptable performance for emergency preparation and restoration of
62 service for electric and gas distribution companies shall be credited by the company to the
63 affected customers of the penalized company. The credit shall be distributed based upon the
64 kilowatt-hours used by the affected customer in the month or months during which the company
65 incurred the penalty. The credit shall be credited during a single billing month and shall not be
66 deferred; provided, however, that companies may petition the department to distribute the credit
67 over a period of greater than 1 month if the credit exceeds \$10,000,000. The department shall
68 promulgate rules and regulations for the implementation of this section.

69 SECTION 7. Subsection (a) of section 85B of said chapter 164, as appearing in the 2010
70 Official Edition, is hereby amended by striking out paragraph (2) and inserting in place thereof
71 the following paragraph:-

72 (2) a communications system with customers during an emergency that includes
73 continuous access to staff assistance and twice-daily updates on estimated return of service;
74 provided that such updates shall begin upon completion of a damage assessment or after the first
75 24 hours of a damage assessment, whichever occurs first;

76 SECTION 8. Paragraph (4) of said subsection (a) of said section 85B of said chapter 164,
77 as so appearing, is hereby amended by inserting after the word "agencies" in line 17, the

78 following words:- including staff posted at the Massachusetts emergency management agency's
79 emergency operations center.

80 SECTION 9. Said subsection (a) of said section 85B of said chapter 164, as so appearing,
81 is hereby amended by striking out paragraphs (6) and (7) and inserting in place thereof the
82 following 3 paragraphs:-

83 (6) procedures for deploying company and mutual aid crews to work assignment areas;

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

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

90 SECTION 10. Said section 85B of said chapter 164, as so appearing, is hereby further
91 amended by adding the following 3 subsections:-

92 (e) Each investor-owned electric distribution, transmission or natural gas distribution
93 company, when implementing an emergency response plan, shall designate an employee or
94 employees to remain stationed at the Massachusetts emergency management agency's
95 emergency operations center for the length of the emergency. The employee or employees shall
96 coordinate communications efforts with local officials and emergency management officials, as
97 required by this section.

98 (f) Each investor-owned electric distribution, transmission or natural gas distribution
99 company, when implementing an emergency response plan, shall designate an employee or
100 employees to serve as community liaisons in each municipality within their service territory.

101 (g) Notwithstanding any existing power or authority, each electric distribution,
102 transmission or natural gas distribution company conducting business in the commonwealth shall
103 provide periodic reports to the department and the Massachusetts emergency management
104 agency regarding emergency conditions and restoration performance during an emergency event.

105 SECTION 11. An investor-owned electric distribution, transmission or natural gas
106 distribution company with a call center within 50 miles of their service area, in operation as of
107 January 1, 2012, need not designate an additional call center under paragraph (8) of subsection
108 (a) of section 85B of chapter 164 of the General Laws as long as the call center continues in
109 operation.

110 SECTION 12. Section 1 shall take effect on July 1, 2012.