

SENATE No. 2166

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 local energy investment and infrastructure modernization.

PETITION OF:

NAME:

Marc R. Pacheco

DISTRICT/ADDRESS:

Third Bristol and Plymouth

SENATE No. 2166

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 2166) of Marc R. Pacheco for legislation relative to local energy investment and infrastructure modernization. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2222 OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act relative to local energy investment and infrastructure modernization.

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 164 of the General Laws is hereby amended by inserting after
2 section 145, as appearing in the 2022 Official Edition, the following section:

3 Section 146:

4 (a) As used in this section, the following words shall, unless the context clearly requires
5 otherwise, have the following meanings:

6 (1) “Local energy resources,” distributed renewable generation facilities, energy
7 efficiency, energy storage, electric vehicles, and demand response and load management
8 technologies.

9 (2) "Distributed renewable generation facility," a facility producing electrical energy
10 from any source that qualifies as a renewable energy generating source under section 11F of
11 chapter 25A and is interconnected to a distribution company.

12 (3) "Board," the Grid Modernization Consumer Board.

13 (b) The Department shall issue an order concluding the current Grid Modernization
14 Proceedings (D.P.U. 15-120, 15-121 and 15-122) by December 31, 2023.

15 (c) The Department shall commence a proceeding by no later than January 31, 2024 that
16 establishes procedures for each distribution company of the commonwealth to create and file
17 with the Department by October 31, 2025 its subsequent Grid Modernization Plan, as described
18 in further detail in subsection (d).

19 (1) This proceeding shall also establish specific metrics and related performance
20 incentives to evaluate the progress of the distribution companies toward establishing a grid
21 planning system to utilize and integrate local energy resources to meet customers' energy needs.
22 Said metrics may include, but are not limited to: reducing the impact of outages, optimizing
23 demand, integrating local energy resources, improving workforce and asset management, and
24 electrification that results in lower greenhouse gas emissions and energy costs savings, after
25 accounting for fuel switching;

26 (2) This proceeding shall also create protections for low-income consumers including, but
27 not limited to, remote shutoff protection and exemption from special cost recovery mechanisms.

28 (d) Every 5 years, on or before April 1, each electric distribution company shall prepare a
29 Grid Modernization Plan. Each plan shall comply with the requirements set forth by the

30 Department in the proceeding described in subsection (c), or as modified by the Department, and
31 shall be prepared in coordination with the Grid Modernization Consumer Board established by
32 subsection (g). Each plan shall:

33 (1) Evaluate locational benefits and costs of local energy resources currently located on
34 the system, and identify optimal locations for local energy resources over the next 10 years. This
35 evaluation shall be based on reductions or increases in local generation capacity and demand,
36 avoided or increased investments in transmission and distribution infrastructure, safety benefits,
37 reliability benefits, and any other savings the local energy resources provide to the electric grid
38 or avoided costs to ratepayers;

39 (2) Provide information about the interconnection of distributed renewable generation
40 facilities in publicly accessible hosting capacity maps that are updated on a continual basis;

41 (3) Propose or identify locational based incentives and other mechanisms for the
42 deployment of cost-effective local energy resources that satisfy planning objectives;

43 (4) Propose cost-effective methods of effectively coordinating existing programs,
44 incentives, and tariffs to maximize the locational benefits and minimize the incremental costs of
45 local energy resources;

46 (5) Identify any additional spending by the distribution company necessary to integrate
47 cost-effective local energy resources into distribution planning consistent with the goal of
48 yielding net benefits to ratepayers;

49 (6) Identify any additional barriers to the deployment of local energy resources;

50 (e) Any distribution infrastructure necessary to accomplish the Grid Modernization Plan
51 is eligible for pre-authorization by the Department, through a review of the company's proposed
52 investments and cost estimates, as supported by the business case.

53 (f) Each Grid Modernization Plan prepared under subsection (d) shall be submitted for
54 approval and comment by the Grid Modernization Consumer Board every 5 years, on or before
55 April 1.

56 (1) The electric distribution companies shall provide any additional information requested
57 by the Board that is relevant to the consideration of the Plan. The Board shall review the plan
58 and any additional information and submit its approval or comments to the electric distribution
59 companies not later than 3 months after the submission of the plan. The electric distribution
60 companies may make any changes or revisions to reflect the input of the Board.

61 (2) The electric distribution companies shall submit their plans, together with the Board's
62 approval or comments and a statement of any unresolved issues, to the Department every 5
63 years, on or before October 31. The Department shall consider the plans and shall provide an
64 opportunity for interested parties to be heard in a public hearing.

65 (3) Not later than 180 days after submission of a plan, the Department shall issue a
66 decision on the plan which ensures that the electric distribution companies have satisfied the
67 criteria set forth by the Department and shall approve, modify and approve, or reject and require
68 the resubmission of the plan accordingly.

69 (4) Each Grid Modernization Plan shall be in effect for 5 years.

70 (g) There shall be a Grid Modernization Consumer Board to consist of the commissioner
71 of the department of energy resources, who shall serve as chair, and 7 members including the
72 attorney general, or his designee, the commissioner of the department of environmental
73 protection, or his designee, and additional members appointed by the Department: 1 shall be a
74 representative of residential consumers, 1 shall be a representative of low-income consumers, 1
75 shall be a representative of the environmental community, 1 shall be a representative of the clean
76 energy technology industry, and 1 shall be a representative of businesses, including large C& I
77 end users. Interested parties shall apply to the Department for designation. Members shall serve
78 for terms of 6 years and may be reappointed. There shall be 1 non-voting ex-officio member
79 from each of the electric distribution companies.

80 (1) The Board shall, as part of the approval process by the Department outlined in
81 subsection (f), seek to maximize net economic benefits through use of distributed energy
82 resources and achieve transmission, reliability, climate and environmental goals. The Board shall
83 review and approve Grid Modernization Plans and budgets, and work with electric distribution
84 companies in preparing resource assessments. Approval of Grid Modernization Plans and
85 budgets shall require a two-thirds majority vote.

86 (2) The Board may retain expert consultants, provided, however that such consultants
87 shall not have any contractual relationship with an electric distribution company doing business
88 in the commonwealth or any affiliate of such company. The Board shall annually submit to the
89 Department a proposal regarding the level of funding required for the retention of expert
90 consultants and reasonable administrative costs. The proposal shall be approved by the
91 Department either as submitted or as modified by the Department. The Department shall
92 allocate funds sufficient for these purposes from the Grid Modernization Plan budgets.

93 (3) The electric distribution companies shall provide quarterly reports to the Board on the
94 implementation of their respective plans. The reports shall include a description of progress in
95 implementing the plan, an evaluation of the metrics identified by the Department in the
96 proceeding described in subsection (c), and such other information or data as the Board shall
97 determine. The Board shall provide an annual report to the department and the joint committee
98 on telecommunications, utilities and energy on the implementation of the plan which includes
99 descriptions of the programs, investments, cost-effectiveness, and savings and benefits during the
100 previous year.

101 SECTION 2: Section 69G of chapter 164, as appearing in the 2018 Official Edition, is
102 hereby amended by inserting the following definition after “department”:

103 “Distributed Renewable Generation Facility”, a facility producing electrical energy from
104 any source that qualifies as a renewable energy generating source under section 11F of chapter
105 25A and is interconnected to a distribution company.

106 Also amended by adding the following definition after “generating facility”:

107 “Infrastructure Resource Facility”, an electric transmission line, an electric distribution
108 line, or an ancillary structure which is an integral part of the operation of a transmission or
109 distribution line, that meets the following criteria: a) is estimated to cost more than \$1 million; b)
110 is needed due to asset condition or load-growth; c) has a date of need at least 36 months in the
111 future; d) has a need that can be addressed by load reductions of less than 20 percent of the
112 relevant peak load in the area of the defined need; and e) such other criteria as the Board may
113 determine. A line that is constructed, owned, and operated by a generator of electricity solely for
114 the purpose of electrically and physically interconnecting the generator to the transmission

115 system of a transmission and distribution utility shall not be considered an Infrastructure
116 Resource Facility.

117 Said section of said chapter is also amended by adding the following definition after
118 “liquefied natural gas”:

119 “Local Energy Resource Alternative”, the following methods used either individually or
120 combined to meet or defer in whole or in severable part the need for a proposed Infrastructure
121 Resource Facility: energy efficiency and conservation, energy storage system, electric vehicles,
122 load management technologies, demand response, distributed renewable generation facilities,
123 and other relevant technologies determined by the Board.

124 SECTION 3: Chapter 164 of the General Laws is hereby amended by inserting after
125 section 69J, as appearing in the 2018 Official Edition, the following section:

126 Section 69J 1/6:

127 (a) No applicant shall commence construction of an Infrastructure Resource Facility at a
128 site unless a Determination of Wires has been approved by the board. In addition, no state
129 agency shall issue a construction permit for any Infrastructure Resource Facility unless the
130 Determination of Wires has been approved by the board and the facility conforms with such
131 determination. Applications for Determination of Wires must be filed with the board no later
132 than four years prior to date of in-service need.

133 (b) A petition for a Determination of Wires shall include, in such form and detail as the
134 board shall from time to time prescribe, the following information: (1) a description of the
135 Infrastructure Resource Facility, site and surrounding areas; (2) an analysis of the need for the

136 facility over its planned service life, both within and outside the commonwealth, including date
137 of need for the facility; (3) a description of the alternatives to the facility, such as other methods
138 of transmitting or storing energy, other site locations, other sources of electrical power or gas, a
139 reduction of requirements through load management, or local energy resource alternatives; and
140 (4) the results of an investigation by an independent 3rd party, which may be the Board or a
141 contractor selected by the Board, of local energy resource alternatives that may, alone or
142 collectively, address or defer part or all of the need identified in the application for the
143 Infrastructure Resource Facility. The investigation must set forth the total projected costs and
144 economic benefits to ratepayers of the Infrastructure Resource Facility, as well as of the local
145 energy resource alternative(s), over the effective life of the proposed Infrastructure Resource
146 Facility.

147 (c) Prior to issuing a Determination of Wires, the Board must consider whether it is
148 possible for any Local Energy Resource Alternative(s), alone or in combination, to meet or defer
149 some or all of the identified need. In its consideration, the Board shall compare the Infrastructure
150 Resource Facility to Local Energy Resource Alternatives based on uniform, standard criteria,
151 including benefit-cost analysis. In its Determination, the Board must make specific findings
152 regarding: i) the portions of the identified need, if any, that cannot be addressed or deferred by
153 Local Energy Resource Alternative(s), due to engineering or public safety reasons; ii) the
154 portions of the identified need, if any, for which the Board determines Local Energy Resource
155 Alternative(s), alone or in combination, may meet or defer the need more cost-effectively, as
156 defined in subsection f, than the Infrastructure Resource Facility, and the duration of such
157 deferral; and iii) additional portions of identified need, if any. Notice of issuance of a
158 Determination of Wires must be provided to the town or city administrator of each municipality

159 in which the related Infrastructure Resource Facility or Local Energy Resource Alternative(s) is
160 located.

161 (d) Upon issuance of a Determination of Wires that contains a finding that one or more
162 Local Energy Resource Alternative(s) may satisfy or defer a portion of the identified need more
163 cost-effectively, as defined in subsection f, than the Infrastructure Resource Facility, the
164 applicant must engage in a transparent, open solicitation for resources that can meet or defer that
165 portion of the need, as well as any additional portions of identified need. Any requests for
166 proposals shall be reviewed by the Department in consultation with DOER, the Energy
167 Efficiency Advisory Council, and the Grid Modernization Consumer Board. The applicant's
168 selection of resources for contracting shall be carried out in consultation with DOER, and any
169 contracts shall be reviewed and approved by the Department.

170 (e) If during the review of contracts by the Department, it is determined that an
171 Infrastructure Resource Facility will meet the identified need more cost-effectively, as defined in
172 subsection f, than the Local Energy Resource Alternative(s), such finding shall serve as prima
173 facie evidence of the Infrastructure Resource Facility being the "lowest possible cost" for the
174 Board's determination under Section 69J.

175 (f) Within three months of enactment of this section, the Department of Energy
176 Resources shall develop, in consultation with the Energy Efficiency Advisory Council, a
177 framework for benefit-cost analysis to be applied to evaluations of Infrastructure Resource
178 Facilities and Local Energy Resource Alternatives, as a determinant of cost-effectiveness. The
179 Total Resource Cost test utilized in the Energy Efficiency programs shall be appropriately
180 modified to account for the value of reliability and other site-specific costs, benefits and risks

181 appropriate to consideration of Local Energy Resource Alternatives. Categories of costs and
182 benefits may include: ratepayer benefits; reasonably foreseeable environmental and public health
183 compliance costs; line losses; local reliability; market price suppression effects for energy and
184 capacity; fuel price risks; avoided transmission and distribution investments; electric generation
185 supply costs and reductions; capacity market costs and reductions; ancillary services costs and
186 reductions; transmission costs and reductions; distribution system costs and reductions; outage
187 costs and reductions for electric customers; renewable energy certificate costs; fuel costs;
188 demand-reduction induced price effects; and other costs and benefits of switching to electricity-
189 based end uses. No later than six months after enactment of this section, such framework shall
190 be considered by the Board in creating regulations regarding the Board's process and criteria for
191 determining cost-effectiveness and issuing a Determination of Wires.

192 (g) Within ten months of enactment of this section, the Department shall issue criteria
193 outlining acceptable methods for securing contracts for Local Energy Resource Alternatives.
194 The Department may consider whether utility performance incentives are appropriate. Any such
195 incentives must be included in the cost effectiveness analysis set forth in subsection f.

196 (h) If the Board determines that one or more local energy resources alternative(s) can
197 sufficiently address or defer the identified need at greater overall economic benefit to ratepayers
198 across the region than the Infrastructure Resource Facility, but at a higher cost to ratepayers in
199 the Commonwealth, the Board shall make reasonable efforts to achieve within 180 days an
200 agreement among the states within the ISO-NE region to allocate the cost of the local energy
201 resource alternative(s) among the ratepayers of the region using the allocation method used for
202 regional transmission lines or a different allocation method that results in lower costs than the
203 proposed Infrastructure Resource Facility to the ratepayers of the Commonwealth.

204 SECTION 4: Section 69J of chapter 164 of the General Laws, as appearing in the 2018
205 Official Edition, is hereby amended by striking the third paragraph and inserting in its place
206 thereof the following paragraph:

207 A petition to construct a facility shall include, in such form and detail as the board shall
208 from time to time prescribe, the following information: (1) a description of the facility, site and
209 surrounding areas; (2) an analysis of the need for the facility, either within or outside, or both
210 within and outside the commonwealth; (3) a description of the alternatives to the facility, such as
211 other methods of transmitting or storing energy, other site locations, other sources of electrical
212 power or gas, or a reduction of requirements through load management; (4) any applicable
213 Determination of Wires; and (5) a description of the environmental impacts of the facility,
214 including impacts on greenhouse gas emissions. The board shall be empowered to issue and
215 revise filing guidelines after public notice and a period for comment. A minimum of data shall be
216 required by these guidelines from the applicant for review concerning land use impact, water
217 resource impact, air quality impact, solid waste impact, radiation impact and noise impact.