

By Mr. Bassett of Lynn, petition of Timothy A. Bassett for legislation to regulate the purchase and sale of electricity by private power producers. Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT REGULATING THE PURCHASE AND SALE OF ELECTRICITY BY PRIVATE POWER PRODUCERS.

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. It is hereby declared that, for the benefit of the
2 people of the commonwealth and the increase of their commerce,
3 welfare and prosperity, the commonwealth should seek to increase
4 the diversification of power and fuel sources, the conservation of
5 energy in industrial facilities and that, to this end, it should pro-
6 mote the construction and operation of cogeneration facilities and
7 small power production facilities and the installation of energy-
8 conservation facilities and facilities designed to reduce consump-
9 tion of petroleum products; that such facilities are not subject to, or
10 reduce, the severe diminishment of future resources which cur-
11 rently discourages unsupplemented long-term reliance on petro-
12 leum products; that the continuing increase in the cost of energy is a
13 basic factor tending to create structural economic weaknesses in
14 the commonwealth, contributing to unemployment and underem-
15 ployment; that power produced by cogeneration and small power
16 production facilities is not directly susceptible to, or would moder-
17 ate, the rapidly escalating production expenses attributable to the
18 high cost of additional electricity production capacity and to
19 dependence on a diminishing fuel source, and, therefore, may be of
20 significant value in moderating future increases in the costs of
21 energy, including electricity in natural environment but can exist
22 harmoniously with natural forces currently untapped by produc-
23 tive human enterprise, or are incidental to such enterprise; and that

24 it is the purpose of this act to provide financing incentives for the
25 construction or installation and operation of cogeneration facili-
26 ties, small power production facilities, energy-conservation facili-
27 ties and facilities designed to reduce consumption of petroleum
28 products, all to the public benefits and good, to the extent and in
29 the manner provided herein.

1 SECTION 2. Chapter 164 of the general laws is hereby amend-
2 ed by adding after clause three of paragraph two of Section 69 I the
3 following clause: —

4 (4) A description of all contracts by the company for the pur-
5 chase of electricity from private power producers in accordance
6 with section one hundred thirty-three of this chapter, the potential
7 and anticipated purchase of electricity from such private power
8 producers by the company during the period covered by said
9 forecasts and the actions the company shall take to fully utilize
10 potential electric generating capacity by small power producers in
11 the territory served by said company during the period covered by
12 said forecasts.

1 SECTION 3. Chapter 164 of the General Laws is hereby
2 amended by inserting at the end of paragraph two of section 69 J
3 the following sentence: — The council, in reviewing and approving
4 a long-range forecast, shall also consider existing and potential
5 generating capacity from cogeneration technology and alternative
6 energy technology operated by private power producers and the
7 past and planned actions of the company to fully utilize such
8 generating capacity.

1 SECTION 4. Chapter 164 of the General Laws is hereby
2 amended by striking out the first sentence of Section 94 A and
3 inserting in place thereof the following sentence: —

4 No gas or electric company shall hereafter enter into a contract
5 for the purchase of gas or electricity covering a period in excess of
6 one year without the approval of the department, unless such
7 contract contains a provision subjecting the price to be paid there-
8 under for gas or electricity to review and determination by the
9 department in any proceeding brought under section ninety-three

10 or ninety-four; provided, that nothing herein contained shall be
11 construed as affecting a contract for the purchase of gas or electric-
12 ity from a person or corporation engaged in manufacturing, where
13 the manufacture, sale or distribution of gas or electricity by such
14 person or corporation is a minor portion of his or its business, and
15 which contract is made in connection with a contract to supply
16 such person or corporation with gas or electricity, or as affecting a
17 contract for the purchase of electricity from an alternative energy
18 producer or private power producer.

1 SECTION 5. Chapter 164 of the General Laws is amended by
2 adding after section 132 the following section: —

3 *Section one hundred thirty-three.* Each electric company,
4 municipal light board as provided for in section fifty-five of this
5 chapter, and municipal light commission as provided for in section
6 fifty-six A of this chapter shall:

7 (1) purchase any electrical energy and capacity made available
8 directly by a private power producer or indirectly under clause four
9 of this paragraph;

10 (2) sell backup electricity to any private power producer in its
11 service territory;

12 (3) make such interconnections necessary to accomplish such
13 purchases and sales;

14 (4) transmit energy or capacity from a willing private power
15 producer to any other such company, municipal light plant, utility
16 or to another facility operated by the private power producer; and

17 (5) offer to operate in parallel with a private power producer.

18 The requirements under clauses (3), (4), and (5) of this paragraph
19 shall be subject to reasonable standards for operating safety and
20 reliability and the nondiscriminatory assessments of costs against
21 private power producers, approved by the department of public
22 utilities with respect to electric companies or determined by munic-
23 ipal light boards and municipal light commissions.

24 The department of public utilities, with respect to electric com-
25 panies and each municipal light board and municipal light commis-
26 sion shall establish rates and conditions of service for:

27 (1) the purchase of electrical energy and capacity made available
28 by a private power producer; and

29 (2) the sale of backup electricity to a private power producer.
30 The rates for electricity purchased from a private power pro-
31 ducer shall be based on the full avoided costs of the electric com-
32 pany, municipal light board or municipal light commission,
33 regardless of whether the purchaser is simultaneously making sales
34 to the private producer. The department, each municipal light
35 board and municipal commission may establish rates for electricity
36 purchased for a private power producer that exceed the full
37 avoided costs of the purchaser for classes of private power produc-
38 ers that further additional public purposes including, but not
39 limited to, the recycling or elimination of trash, wastes, or garbage
40 through electric or energy generation and the maintenance of cost
41 competitiveness and employment for an industry in the common-
42 wealth provided such rates shall not result in unreasonable costs to
43 electric consumers. Payment for energy and capacity purchased
44 from a private power producer by any such electric company,
45 municipal light board or municipal light commission shall be pur-
46 suant to such rates and conditions or the terms of a contract
47 between the parties.

48 When any person, firm, or corporation proposes to enter into a
49 contract to sell energy and capacity as a private power producer, an
50 electric company, municipal light board or municipal light com-
51 mission shall respond promptly to all requests and offers and
52 negotiate in good faith to arrive at a contract which fairly reflects
53 the provisions of this section and the anticipated avoided costs over
54 the life of the contract. Upon application by a private power
55 producer, the department may approve a contract which provides
56 for payment of less than the anticipated avoided costs if, consider-
57 ing all of the provisions, the contract is at least as favorable to the
58 private power producer as a contract providing for full anticipated
59 avoided costs. The contract may extend for a period of not more
60 than twenty years at the option of the private power producer if
61 said private power producer has a generating facility with a capac-
62 ity of at least one hundred kilowatts.

63 If a private power producer believes that an electric company,
64 municipal light board, or municipal light commission has violated
65 any provision of this section, said private power producer may
66 submit a written petition alleging such violation to the department.

67 Upon receipt of the petition, the department shall fix a time and
68 place for a hearing and mail notice of the hearing to the parties in
69 interest at least one week in advance. Upon the hearing, the depart-
70 ment may if it finds the company, municipal light board, or munic-
71 ipal light commission has violated any such provision prescribe the
72 manner in which it shall comply.

73 As used in this section, "avoided costs" means the incremental
74 costs to an electric company, municipal light board, or municipal
75 light commission of electric energy or capacity or both which, but
76 for the purchase from a private power producer, as defined in
77 section one hundred and thirty-four of this chapter, such electric
78 company, municipal light board, or municipal light commission
79 would generate itself or purchase from another source.

80 *Section one hundred thirty-four.* As used in sections sixty-nine
81 I, sixty-nine J, ninety-four A and one hundred thirty three of this
82 chapter, "private power producer" means any person, firm, corpo-
83 ration, the state or political subdivision of the state or any combi-
84 nation thereof, which generates electricity solely through the use of
85 cogeneration technology, solely through the use of renewable
86 energy sources or through both only, but not including an electric
87 company, municipal light plant, municipal light board, municipal
88 light commission organized under this chapter or any other com-
89 pany owned in whole or in part by such electric company, munici-
90 pal light plant, municipal light board, or municipal light commis-
sion.

The following is a list of the names of the persons who were members of the Board of Directors of the Bank of the City of New York, during the year 1901.

1. J. P. Morgan

2. Charles D. Conover

3. J. D. Rockefeller

4. J. C. Schermerhorn

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The Government of the United States

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