

SENATE NO. 1922

AN ACT RELATIVE TO THE MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC COMPANY

*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 1 of chapter 775 of the acts of 1975 is hereby amended by striking out the
2 definition of “electric power facilities” or “electric power facility”, as inserted by section 2 of chapter
3 129 of the acts of 1988, and inserting in place thereof the following 2 definitions:- “Energy facilities”
4 or “energy facility”, electric power facilities, electric power facility, or any system or facility, or any
5 interest in, or right to the use of, services derived from these facilities, facility or system or any part of
6 a facility or system, including any energy conservation system, system for the production of renewable
7 energy, or alternative energy facility for the manufacture, generation, transmission, distribution,
8 transformation, transportation, storage, purchase, sale, exchange or interchange or conservation of
9 energy or any byproducts or ancillary products or services by any means whatsoever, including but not
10 limited to vehicles, personal or real property and any facility for processing refuse, or other materials
11 into fuel with or without other byproducts, or facilities and property for the acquisition, extraction,
12 conversion, transportation, storage, reprocessing, or disposal of fuel and other material of any kind for
13 any of these purposes, as necessary to carry out the purposes of this act. “Energy”, electricity, electric
14 power, electric capacity, electric energy, natural gas, liquefied natural gas, LP air gas, propane air,
15 synthetic natural gas, oil, steam,
16 coal, water, wind, battery, or any byproducts, derivatives, services, ancillary products or ancillary
17 services, including but not limited to reactive power/voltage control, loss compensation, scheduling

18 and dispatch, load following, system protection service and energy imbalance service, emissions
19 allowances, or the transmission, transportation, storage, purchase, sale, exchange or interchange of
20 energy capacity, either electric or other, distribution, disposal, decommissioning thereof, or the
21 transmission, transportation, , storage, disposal, decommissioning or distribution of any byproducts
22 thereof.

23 SECTION 2. Section 5 of said chapter 775 is hereby amended by striking out clauses (h) and (i) and
24 inserting in place thereof the following clauses:- (h) to sell, lease, mortgage, exchange, transfer or
25 otherwise dispose of, or to grant options for any such purposes with respect to any real or personal
26 property or interest therein, with or without consideration and notwithstanding whether the real or
27 personal property is needed by or useful to the corporation, all upon such terms and conditions as the
28 corporation shall determine; (i) to pledge or assign any money, fees, charges, or other revenue of the
29 agency, or any real or personal property and any proceeds derived by the corporation from the sale of
30 energy or property, the purchase of any insurance or condemnation awards;.

31 SECTION 3. Said section 5 of said chapter 775 is hereby further amended by striking out clauses (k)
32 to (p), inclusive, and inserting in place thereof the following clauses:-
33 (k) to borrow money and issue its bonds as provided in this act and to provide a pooled loan program
34 on behalf of and for the benefit of its members, to make loans to its members and to enter into leases
35 on behalf of its members, both as lessee or lessor; (l) to purchase energy at wholesale , including but
36 not limited to all or a portion of the capacity and output of energy facilities and steam, whether or not
37 produced by an electric power facility; (m) to sell energy and related products and services to member
38 and non-member cities and towns having municipal electric departments established under chapter 164
39 of the General Laws or a special act and to other utilities, public and private, cities, towns,
40 associations, aggregators, groups, authorities, agencies, political subdivisions, public corporations,

41 private corporations, districts, departments of the commonwealth, suppliers, energy marketers, energy
42 brokers, cooperatives, either private or non-profit, and any other entities, which have access to
43 generation service and choice of energy suppliers, both public and private, within and without the
44 commonwealth; all cities and towns and other entities or persons listed in this section may purchase
45 energy sold by the corporation, but the sale of energy and related products and services to any of these
46 entities or persons shall not be considered to be supplying generation service outside of a municipal
47 lighting plant's service territory for purposes of paragraph (b) of section 47A of said chapter 164, and
48 the sale of energy in a city or town served by a municipal lighting plant shall receive approval by the
49 municipal lighting plant before the initial sale;

50 (n) to contract for the use of generation, manufacturing, transmission, storage, disposal,
51 decommissioning, transportation, and distribution facilities owned by others for the delivery to
52 purchasers of energy sold by the corporation, and any owner of these facilities may enter into contracts
53 with the corporation; (o) to contract with respect to the purchase, sale, delivery, exchange, interchange
54 wheeling, pooling, transmission, transportation, storage, disposal, decommissioning, or use of energy
55 and to participate in intrastate, interstate and international arrangements with respect thereto, including
56 a New England Power Pool as defined by section 1 of said chapter 164A of the General Laws; (p)
57 jointly or separately to plan, finance, acquire, construct, improve, purchase, operate, maintain, use,
58 share costs of, own, lease, sell, dispose of, mortgage, or otherwise participate in energy facilities or
59 portions of these facilities or research and development relating to them within and without the
60 commonwealth and to enter into and perform contracts with respect to these facilities, and if the
61 corporation acquires or owns an interest as a tenant in common with others in any energy facilities
62 within the commonwealth, the surrender or waiver by any owner of the property of its right to partition
63 the property for a period not exceeding the period for which the property is used or useful for the

64 corporation's purposes shall not be invalid and unenforceable for any reason of length of that period, or
65 as unduly restricting the alienation of the property;.

66 SECTION 4. Clause (s) of said section 5 of said chapter 775 is hereby amended by striking out the
67 word “fanctions” and inserting in place thereof the following word:- functions.

68 SECTION 5. Said section 5 of said chapter 775 is hereby further amended by striking out clause (t)
69 and inserting in place thereof the following 3 clauses:- (t) to enter into contracts determined by the
70 corporation to be necessary or for the prudent management of the corporation’s assets, funds, debts, or
71 fuels, including without limitation, interest rate swaps, option contracts, future contracts, forward
72 purchase contracts, hedging contracts, leases, or other risk management instruments; and (u) to
73 exercise and perform all or a part of its powers and functions through 1 or more wholly-owned or
74 partly-owned corporations or other entities; and (v) to do all things necessary, convenient or desirable
75 to carry out the purposes of this act or the powers expressly granted or necessarily implied in this act.

76 SECTION 6. Subsection (a) of section 6 of said chapter 775 is hereby amended by striking out the first
77 sentence and inserting in place thereof the following sentence:- The corporation may contract to sell,
78 and any entity, aggregator, association, agency, authority, district, city, town, political subdivision,
79 department of the commonwealth, public or private corporation, and any other entity authorized to
80 purchase energy within or without the commonwealth, including but not limited to member and non-
81 member cities and towns having municipal electric departments established under chapter 164 of the
82 General Laws or by a special act and any utilities, public or private, and cities, towns, associations,
83 aggregators, groups, authorities, agencies, political subdivisions, districts, departments of the
84 commonwealth, suppliers, energy brokers, cooperatives either private or non-profit, and any entities,
85 either private or non-profit and any other entities who have retail access to generation services and
86 choice of energy suppliers both public and private may contract to purchase all or a portion of the

87 capacity and output of 1 or more energy facilities or energy, byproducts or related or ancillary services
88 sold by the corporation, including without limitation contracts providing for the planning, engineering,
89 design, acquiring sites or options for sites and expenses preliminary or incidental to these facilities, but
90 the contract to sell shall not be considered to be supplying generation service outside of a municipal
91 lighting plant's service territory for purposes of paragraph (b) of section 47A of said chapter 164, and
92 the sale of energy in a city or town served by a municipal lighting plant shall receive approval by the
93 municipal lighting plant before the initial sale.

94 SECTION 7. Said section 6 of chapter 775 is hereby further amended by striking out subsections (b)
95 and (c) and inserting in place thereof the following 3 subsections:- (b) Neither the obligations of the
96 corporation nor the obligations of any member or non-member cities and towns or districts, authorities,
97 or departments of the commonwealth or political subdivisions under the capacity and output contracts
98 shall be included in computing the borrowing capacities of the cities and towns or districts, authorities,
99 departments of the commonwealth or political subdivisions. Such obligations of cities and towns
100 having municipal electric departments established under said chapter 164 or a special act shall be
101 treated as expenses of operating their electric plants and shall constitute special obligations of the
102 cities and towns, payable solely from the revenues and other moneys derived by the cities and towns
103 from their electric departments or systems, the liability of these cities and towns from other funds
104 being limited to obligations undertaken by them to pay for the energy used by them. (c) A city or town
105 shall be obligated to fix, revise, and collect fees and charges for energy and other services, facilities
106 and commodities furnished or supplied through its electric department or systems at least sufficient to
107 provide revenues adequate to meet its obligations under any contracts with the corporation and to pay
108 any and all other amounts payable from or constituting a charge and lien upon such revenues,
109 including amounts sufficient to pay the principal of and interest on all bonds issued by the city or town

110 for energy-related purposes. A city or town shall be obligated to fix, revise and collect fees and
111 charges for energy and other services, facilities and commodities furnished or supplied through its
112 electric department or system at least sufficient to provide revenues adequate to meet its obligations
113 under any such output and capacity contract and to pay any and all other amounts payable from or
114 constituting a charge and lien upon these revenues, including amounts sufficient to pay the principal of
115 and interest on all bonds issued by the city or town for energy-related purposes. (d) A city or town,
116 which does not have an electric department, district, authority, department of the commonwealth, or
117 political subdivision shall be obligated to fix, revise and collect taxes, fees or charges sufficient to
118 provide revenues adequate to meet any of its obligations under any contract with the corporation.

119 SECTION 8. Section 9 of said chapter 775 is hereby amended by striking out subsection (a) and
120 inserting in place thereof the following subsection:- (a) The corporation may, subject to the approval
121 of the department, borrow money by the issue of its bonds for any of its corporate purposes. Bonds
122 may be issued under this section as mortgage bonds, as general obligations of the corporation or as a
123 special obligation payable solely from particular funds. Without limiting the generality of the
124 foregoing, these bonds may be issued for project costs, prepayment of fuel, transmission or
125 transportation of fuel, or the corporation's share of project costs of energy facilities or long-term
126 purchases of rights to use energy facilities which may include interest before and during the carrying
127 out of any project and for a reasonable period after that time, prepayments under contracts for the
128 purchase of energy, or services related thereto, stranded investment costs, early termination costs of
129 any energy project, decommissioning costs, reserves for debt service or other capital or current
130 expenses that may be required by a trust agreement or resolution securing bonds, and all other
131 expenses incidental to the determination of the feasibility of any project or to carrying out the project
132 or to placing the project in operation.

133 SECTION 9. Subsection (a) of section 10 of said chapter 775 is hereby amended by striking out the
134 first 2 sentences and inserting in place thereof the following 2 sentences:- In the discretion of the
135 corporation, but subject to approval by the department, any bonds issued under this act may be secured
136 by a resolution of the board or by a trust agreement between the corporation and a corporate trustee,
137 which may be any trust company or bank having the powers of a trust company within or without the
138 commonwealth, and this trust agreement shall be in a form and executed in a manner that may be
139 determined by the corporation. The trust agreement or resolution may pledge or assign, in whole or in
140 part, the revenues and other moneys held or to be received by the corporation, including the revenues
141 from any facilities already existing when the pledge or assignment is made, and any contract or other
142 rights to receive the same, whether then existing or later coming into existence and whether then held
143 or later acquired by the corporation, and the proceeds thereof.

144 SECTION 10. Subsection (b) of said section 10 of said chapter 775 is hereby amended by striking out
145 the first sentence and inserting in place thereof the following sentence:- The corporation is authorized
146 to fix, revise, and collect fees and charges for energy and other services, facilities, and commodities
147 furnished or supplied by it, but no costs, losses or benefits of any such endeavor shall be allocated to
148 any other endeavor unrelated to it.

