

June 3, 2025

Via Electronic Mail

Senator Michael Barrett, Chair
Joint Committee on Telecommunications,
Utilities and Energy
State House, Room 312-B
Boston, MA 02133
Mike.Barrett@masenate.gov

Representative Mark Cusack, Chair
Joint Committee on Telecommunications,
Utilities and Energy
State House, Room 43
Boston, MA 02133
Mark.Cusack@mahouse.gov

Re: House 15, An Act Relative to Retail Electricity Suppliers

Dear Chairpersons Barrett and Cusack:

I write to you in support of House 15, *An Act Relative to Retail Electricity Suppliers*.

I filed this legislation following the Office of the Inspector General's (OIG) investigation into Massachusetts Retail Electricity Supplier (RES) programs, including the Renewable Energy Portfolio Standard (RPS), the Alternative Energy Portfolio Standard (APS), and the Clean Energy Standard (CES). Through the [investigation](#), the OIG found several enforcement gaps that prevented the Commonwealth from recouping millions of dollars that RESs owed to the state. House 15 includes several reforms to assist regulators in ensuring that RESs meet their obligations to the Commonwealth while also giving consumers the benefits of renewable and clean energy sources.

This bill focuses on three categories of reforms: (1) bolstering surety bond requirements for RESs; (2) updating billing and collection procedures to foster compliance by vendors with state law; and (3) strengthening program enforcement mechanisms.

Bolstering Surety Bond Requirements

A key part of the RPS, APS, and CES programs is a requirement that RESs make an alternative compliance payment, or ACP, to the state if they do not obtain a specified amount of renewable or clean energy in a given year. In furtherance of this requirement, APS and RPS regulations promulgated by the state Department of Energy Resources (DOER) dictate that RESs annually provide evidence of financial liquidity in the form of a surety bond or other financial instrument. These regulations cap the amount of the bond or instrument at \$1 million.

The OIG's investigation found companies that failed to pay the state millions of dollars in ACPs under the RPS, APS, and CES programs. The state was unable to collect on these obligations because the companies had filed for bankruptcy or otherwise ceased business. While the noncompliant companies made up less than five percent of the RES market for compliance year 2021, the amounts they owed underscore the fact that the current surety requirements for the RPS and APS programs are insufficient.

House 15 would ensure that RESs are held accountable in the event that they do not fulfill their renewable energy obligations. Specifically, the bill requires that RESs annually submit evidence of financial security to DOER (for the RPS and APS) or to the state Department of Environmental Protection (DEP) in the case of the CES. This evidence can be in the form of a surety bond or other proof of liquid funds, such as a certificate of deposit or a line of credit. The RES is required to demonstrate liquid funds in an amount equal to (1) 20% of the RES's estimated gross receipts for its first full year of operation; (2) 20% of the RES's gross receipts for the previous year, not including revenue from the provision of basic service, for any year after the first year of operation; or (3) \$100,000, whichever is greater.

The bill further provides that if a supplier does not meet its compliance requirements, it must submit a plan for achieving compliance for the subsequent three years. That plan must be filed by April 30 of the year following the noncompliant year or by a date determined by DOER or DEP. If the RES does not meet its annual obligations under the RPS, APS, or CES, the supplier will pay DOER (for the RPS and APS) or DEP (for the CES) the full amount of the financial security it demonstrated or the ACP that the RES must make in order to discharge its annual obligation in full, whichever amount is less. If collection of the financial security results in an amount insufficient to discharge the RES's full obligation owed to the Commonwealth, the RES remains in noncompliance. DOER or DEP can then take necessary actions to enforce compliance, including, but not limited to, filing a petition with the Department of Public Utilities requesting investigation.

House 15 would ensure that if an RES does not comply with the RPS, APS, or CES, Massachusetts would be able to recover a substantial amount of what the supplier owes. Based on our prior investigation, such recovery with the Commonwealth was not possible.

Updating Billing and Collection Procedures

This legislation also proposes technical changes to billing, collection, and compliance procedures that would not only serve to streamline these processes but would also allow for greater opportunities for agencies to enforce the law as necessary.

Current law provides too long a window between the end of a calendar year and the date when ACPs for that year are due on July 1 of the following year. This bill would change the due date to April 30 or the first business day thereafter. Changing the ACP due date to earlier in the year would make it more difficult for RESs to skirt payment of their ACPs by transferring funds or filing for bankruptcy in the interim months. Based upon our prior investigation, such a long gap provided opportunity for other obligations to be paid or for the entity to cease operations prior to funds being due.

Additionally, this bill would update the state's billing and collection procedures for the RES programs. Invoices would include information about the amount owed, procedures that companies should follow to submit their required payment, and notice of the penalties facing the companies should they fail to pay. Such billing practices would align with the requirements of the Comptroller of the Commonwealth and would allow use of the Comptroller's billing system and the Commonwealth's Intercept system should those tools be necessary.

Strengthening Enforcement Mechanisms

Under current law as codified in Section 7 of Chapter 25A of the Massachusetts General Laws, an RES that violates the RPS or APS programs “shall be subject to a civil penalty not to exceed five thousand dollars per offense.” However, for the CES program, the Massachusetts Clean Air Act (CAA) establishes a fine of not more than \$25,000 for each violation. Significantly, *each day* that an RES does not pay is a separate violation of the CES program. The CAA also makes clear that these penalties may be assessed by an action brought on behalf of the Commonwealth in Superior Court.

House 15 would align the penalties of the RPS and APS programs with the CES program. The bill clarifies that each day an RES fails to pay is a separate violation and increases the fine for violations of the RPS and APS programs to the CES penalty amount of \$25,000 per violation. The bill further clarifies that the Commonwealth may bring an action in Superior Court against the RES to assess those penalties.

Finally, this bill clarifies that violations of the RPS, APS, and CES shall per se constitute an unfair or deceptive act or practice for purposes of Chapter 93A, the Massachusetts Consumer Protection Act. Massachusetts ratepayers often choose to pay a premium for clean and renewable energy. RESs profit from the goodwill of consumers who believe they are purchasing such energy from a supplier participating in a state program. Violations of these standards may erode consumers’ trust in the integrity of these programs and may disincentivize the purchase of clean or renewable energy. Thus, such violations should be clearly identified as unfair and deceptive acts or practices in accordance with Chapter 93A.

Thank you for your consideration of this legislation. I respectfully ask that this bill be reported favorably out of this committee. If you have questions or concerns, please feel free to contact me at Jeffrey.S.Shapiro@mass.gov or 617-722-8806, or Joshua Giles, Director of Government Outreach and Public Policy, at Joshua.Giles@mass.gov or 617-722-8828.

Sincerely,



Jeffrey S. Shapiro, Esq., CIG
Inspector General

cc (by email):

Senator Michael D. Brady, Vice Chair
Representative Michael P. Kushmerek, Vice Chair
Senator Bruce E. Tarr, Ranking Minority Member
Representative Bradley H. Jones Jr., Ranking Minority Member
Joshua Giles, Director, Government Outreach and Public Policy, OIG
Nataliya Urciuoli, Senior Executive Assistant, OIG