

## **Bills H.2881 and H.4336: An Act to Promote Energy Diversity**

The Massachusetts Legislature is considering legislation to promote the development of clean energy resources by mandating that the state's local distribution companies conduct a competitive procurement process to award long-term contracts to such resources. Bill [H.2881](#), an Act to promote energy diversity, was first referred to the House committee on Telecommunications, Utilities and Energy in early 2015, and aims to encourage clean energy security, energy diversity and economic growth in the Commonwealth. It originally covered a wide variety of topics, including offshore wind, hydropower, transmission lines, land use, natural gas pipelines and energy facility siting. After months of deliberation, a new draft of Bill H.2881, Bill [H.4336](#), was moved out of committee last week. Incorporating parts of H.2881, this redrafted energy bill focuses on hydroelectric imports and offshore wind. This draft legislation is likely to be viewed as of greater importance given the recent decision by the Massachusetts Supreme Judicial Court that the state wasn't taking deliberate enough actions to achieve the greenhouse gas emission reduction targets specified in the *Global Warming Solutions Act*. Specifically, the Court noted that the "purpose of [the law] is to attain actual, measurable, and permanent emission reductions in the Commonwealth, and . . . to ensure that legally mandated reductions are realized by the 2020 deadline". Against this backdrop, ISO-NE recently reported that the carbon dioxide emissions of the region's power plants increased by 7% in 2015, offsetting a series of declines since 2010. Further increases are likely given the pending retirement of the Pilgrim Nuclear Generating Station.

### *Hydroelectric*

Bill H.4336 requires Massachusetts local distribution companies to conduct competitive solicitations for "clean energy generation", which can be fulfilled either by hydroelectric imports alone or by Class I RPS resources that include hydroelectric imports.<sup>1</sup> Preference will be given to proposals with more than one source of clean energy generation.<sup>2</sup> The first of these proposals must be solicited by January 1, 2017, and can be for no more than 9.45 TWh of delivered energy per year. To help finance this clean energy generation, distribution companies are to enter into either long-term contracts with clean energy developers or delivery commitment agreements with transmitters, lasting 15 to 20 years.

The bill lays out no definitive timetable as this is to be determined jointly by the distribution companies and the Department of Energy Resources along with the form of the competitive bidding process.

### *Offshore Wind*

The bill also calls for 1,200 MW of aggregate nameplate offshore wind capacity by 2027, and requires all distribution companies to jointly and competitively bid for offshore wind projects. Individual solicitations are required to be at least 400 MW of aggregate nameplate capacity. The first proposals must be solicited by June 30, 2017, with subsequent solicitations made within 24 months of previous ones, following a staggered procurement schedule. Long-term contracts of 15 to 20 years will be offered to selected proposals.

### *Hydroelectric & Offshore Wind*

The volume of energy for hydroelectric and Class I renewable resources required by Bill H.4336 is half of what was proposed in Senate Bill 1965, introduced in the previous legislative session. With this legislation emanating from the House with the strong support of Representative Haddad (Speaker Pro Tem) of Fall River, it is unsurprising that it provides a major role for offshore wind.

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<sup>1</sup> H.4336 line 6 – 8

<sup>2</sup> H.4336 line 202-203

The criteria for both the clean energy generation and the offshore wind projects solicited under this bill are surprisingly similar. Recognizing its higher cost, there was some expectation that offshore wind would be subject to a price cap, but not a cost-effectiveness test. However, both resources must:

- Enhance electricity reliability and reduce winter price spikes;
- Be cost effective in the long-term for ratepayers;
- Optimize transmission;
- Demonstrate commercial viability;
- Create greater benefit to the economy, energy system and environment than cost to ratepayers; and
- When possible, create employment opportunities and economic development in Massachusetts.

Clean energy generation proposals must additionally 1) guarantee energy delivery in winter months and 2) allow for the contract or delivery commitment agreement price to be recalculated annually based on wholesale market prices.<sup>3</sup>

In both cases, distribution companies may choose to use the energy purchased under these contracts for resale to its customers and may choose to retain RECs to meet any RPS requirements. Under the bill, if unused, companies are to sell purchased energy into wholesale spot markets or auction RECs through a competitive bid process.<sup>4</sup>

Moreover, Bill H.4336 allows distribution companies the right to decline proposals if the terms create an unreasonable burden on the company's balance sheet. Companies may structure contracts and projects to mitigate negative financial impact, as long as doing so does not increase ratepayer cost. Transmission costs may also be incorporated into both hydroelectric and offshore wind proposals, which contracting parties may seek to recover through federal transmission rates.

For both procurements, solicitations may be conducted jointly with other New England states or state-designated entities.

Interestingly, the original draft of Bill H.2881 called for the department of public utilities to adopt guidelines for a regional transmission solution by 2017 that would allow utilities to competitively bid for transmission lines. These guidelines were also required to ensure that transmission line projects would be cost-effective and benefit the State's electricity system. While this language was not retained in Bill H.4336, it suggests that such a "CREZ"-like concept may reappear in future legislation.<sup>5</sup> The success of the Tri-State Clean Energy RFP in enabling transmission development may influence the need for such an approach.

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<sup>3</sup> While we expect suppliers to seek revenue certainty, the legislation uses "allow for" the contract price to be recalculated annually based on wholesale market prices presumably to enable suppliers to offer buyers pricing with a different risk profile.

<sup>4</sup> Continued explanation of this can be found beginning at H.4336 line 126

<sup>5</sup> CREZ (Competitive Renewable Energy Zones) were employed in Texas to enable the development of \$7 billion in transmission which in turn was to facilitate the development of 18,000 MW of wind generation.