

HOUSE No. 2812

The Commonwealth of Massachusetts

PRESENTED BY:

Natalie M. Blais

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 clarifying authority and responsibilities of the department of public utilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>

<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>

HOUSE No. 2812

By Ms. Blais of Sunderland, a petition (accompanied by bill, House, No. 2812) of Natalie M. Blais and others relative to clarifying authority and responsibilities of the Department of Public Utilities. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act clarifying authority and responsibilities of the department of public utilities.

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 30A of the General Laws is hereby amended by inserting after
2 section 10A the following section: -

3
4 Section 10B. Notwithstanding the provisions of section 10, in any adjudicatory
5 proceeding regarding any petition, request for approval or investigation of a gas company or
6 electric company, as those terms are defined in section 1 of chapter 164, the following shall be
7 permitted to participate as full parties in the proceeding:

- 8 (a) any municipality that is within the service area of such company;
- 9 (b) any member of the general court whose district includes ratepayers of such company;
- 10 and
- 11 (c) any group of not fewer than 10 persons who are ratepayers of the company.

12 SECTION 2. Section 76A of chapter 164 of the General Laws, as appearing in the 2014
13 Official Edition, is hereby amended by striking out, in line 14, the words “section ninety-three or
14 ninety-four,” and inserting in place thereof the following words:- sections 93, 94 or 94A; and by
15 inserting after the second paragraph the following paragraph:-

16 A gas or electric company shall not give preference of any kind with respect to any
17 relations, transactions, and dealings with any affiliated company. In any proceeding brought
18 under section 94A, there shall be a rebuttable presumption against approval of contracts between
19 any gas or electric company and any affiliate company. The department shall promulgate
20 regulations to implement this section not later than December 31, 2020; provided that such
21 regulations shall take effect not later than June 1, 2021.

22 SECTION 3. Section 94A of chapter 164 of the General Laws, as appearing in the 2014
23 Official Edition, is hereby amended by striking out the section title and inserting in place thereof
24 the following section title: - Contracts for purchase of gas, gas pipeline capacity, liquefied gas
25 storage, or electricity; public interest determination by department; and

26 by striking out lines 1 through 24 and inserting in place thereof the following:-

27 As used in this section, the following words shall have the following meanings unless the
28 context clearly requires otherwise:

29 “Gas infrastructure”, includes but is not limited to pipelines, compressor stations, meter
30 stations, liquefied gas storage facilities and liquefaction facilities.

31 (a) No gas company shall enter into a contract for the purchase of gas, and no electric
32 company shall hereafter enter into a contract for the purchase of electricity, covering a period in

33 excess of 1 year without the approval of the department, unless such contract contains a
34 provision subjecting the price to be paid thereunder for gas or electricity to review and
35 determination by the department in any proceeding brought under section 93 or 94; provided,
36 however, that nothing in this section shall be construed as affecting a contract for the purchase of
37 gas or electricity from an entity engaged in manufacturing, where the manufacture, sale or
38 distribution of gas or electricity by the entity is a minor portion of the entity's business, and
39 which contract is made in connection with a contract to supply the entity with gas or electricity,
40 or as affecting a contract for the purchase of electricity from an alternative energy producer;
41 further, that in any such proceeding the department may review and determine the price to be
42 thereafter paid for gas or electricity under a contract containing said provision for review. Any
43 contract covering a period in excess of 1 year subject to approval as aforesaid, and that is not
44 approved or that does not contain said provision for review, shall be null and void. No gas
45 company may contract for electricity pursuant to this section and no electric company may
46 contract for gas pursuant to this section. The department is authorized to exempt any electric or
47 generation company from any or all of the provisions of this subsection upon a determination by
48 the department, after notice and a hearing, that an alternative process or incentive mechanism is
49 in the public interest.

50 (b) As part of any review of any contract with a term of more than one year for gas
51 pipeline capacity or liquefied gas storage that requires the construction of new or expanded gas
52 infrastructure, the department shall determine whether such contract is in the public interest. The
53 department shall not approve such a contract unless, in its public interest determination, the
54 department finds that:

55 (i) such contract is necessary and cost-effective for ratepayers;

56 (ii) such contract compares favorably to other reasonably available options in terms of its
57 impact on rates, the economy, environment, climate, local communities, public health, safety and
58 welfare;

59 (iii) the applicant has identified and evaluated alternatives that would reduce or eliminate
60 the need for private land takings or public land disposition including, but not limited to, fuller
61 and more long-term utilization of existing infrastructure, distribution system repairs, and
62 enhancement of peak shaving measures; and

63 (iv) for contracts exceeding a term of 3 years, the applicant has reasonably evaluated
64 demand-side options to reduce or eliminate the need for new infrastructure.

65 To aid in the department's public interest determination under this subsection (b), any gas
66 company seeking department review of a contract that requires the construction or expansion of
67 gas infrastructure shall first hold a competitive solicitation for non-gas alternatives. Such
68 competitive solicitations shall seek energy solutions that reduce greenhouse gas emissions and
69 that address the considerations enumerated in subpart (i) through (iv) above.

70 The department shall not approve any contract requiring a public interest determination
71 under this subsection (b) if the applicant is the subject of an ongoing National Transportation
72 Safety Board investigation. If such an investigation opens after department approval of a contract
73 but prior to construction of the infrastructure required to fulfill the contract, the order approving
74 such contract shall be automatically vacated.

75 (c) The department shall not approve any gas pipeline capacity contract or liquefied gas
76 storage contract where new capacity is proposed to be created through the installation of gas
77 infrastructure in, upon or below land that, at the time the contract is submitted to the department

78 for approval, is protected under Article 97 of the Articles of Amendments to the Constitution of
79 the Commonwealth.

80 SECTION 4. Chapter 164 of the General Laws, as appearing in the 2014 Official
81 Edition, is hereby amended by inserting after section 94I the following section:-

82 Section 94J. Nothing in this Chapter shall authorize a gas company to contract for the
83 purchase of electricity, and nothing in this Chapter shall authorize an electric company to
84 contract for the purchase of gas, gas pipeline capacity, or liquefied gas storage.

85 SECTION 5. Section 69J of chapter 164 of the General Laws, as appearing in the 2014
86 Official Edition, is hereby amended by striking out, in lines 56 through 58, the words “provided,
87 however, that the department or board shall not require in any gas forecast or hearing conducted
88 thereon the presentation of information relative to the demand for gas;”.

89 SECTION 6. Section 75D of chapter 164 of the General Laws, as appearing in the 2014
90 Official Edition, is hereby amended by striking out the section title, and inserting in place thereof
91 the following section title: -Survey preliminary to eminent domain proceedings; applicability to
92 natural gas pipelines; and

93 by striking out lines 1 and 2 and inserting in place thereof the following:-

94 Section 75D. The provisions of section 72A shall be applicable to natural gas pipeline
95 companies, as defined in section 75B. Notwithstanding any other provision of Section 75, no
96 natural gas pipeline company shall be permitted to submit a petition to the department for survey
97 access or to enter upon lands for survey access preliminary to eminent domain proceedings and
98 as provided in section seventy-two A, unless such natural gas pipeline company:

99 (a) has been issued with respect to the project for which survey access is sought either (i)
100 a certificate of public convenience and necessity under 15 U.S. Code Chapter 15B, or, as
101 applicable for intrastate pipelines, (ii) any required certificate or approval required pursuant to
102 any local or state law, including a certificate under section 69K; and

103 (b) has secured a final, unappealable adjudication of an order granting the applicable
104 certificate as set forth in subsection (a).

105 Any petition filed with the department under this section 75D shall be subject to an
106 adjudicatory hearing before the department.