

SENATE No. 1847

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Stephen Kulik</i>	<i>1st Franklin</i>	
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/25/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/25/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/26/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/26/2017</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>1/26/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/27/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/30/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/30/2017</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/30/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>1/30/2017</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>1/31/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/1/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/1/2017</i>
<i>Brian Murray</i>	<i>10th Worcester</i>	<i>2/1/2017</i>

<i>Carlos Gonzalez</i>	<i>10th Hampden</i>	<i>2/1/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/2/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/2/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/2/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>2/2/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>2/3/2017</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	<i>2/3/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/3/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/3/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>2/3/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>2/3/2017</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>2/3/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/3/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/6/2017</i>

SENATE No. 1847

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1847) of James B. Eldridge, Stephen Kulik, Frank I. Smizik, Denise Provost and other members of the General Court for legislation to clarify the authority and responsibilities of the department of public utilities. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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

7 (a) any municipality that is within the service area of such company;

8 (b) any member of the general court whose district includes ratepayers of such company;

9 and

10 (c) any group of not less than 10 persons who are ratepayers of the company.

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

15 A gas or electric company shall not give preference of any kind with respect to any
16 relations, transactions, and dealings with any affiliated company. In any proceeding brought
17 under section 94A, there shall be a rebuttable presumption against approval of contracts between
18 any gas or electric company and any affiliate company. The department shall promulgate
19 regulations to implement this section not later than December 31, 2018; provided that such
20 regulations shall take effect not later than June 1, 2019.

21 SECTION 3. Section 94A of chapter 164 of the General Laws, as appearing in the 2014
22 Official Edition, is hereby amended by striking out the section title and inserting in place thereof
23 the following section title:- Contracts for purchase of gas, gas pipeline capacity, liquefied gas
24 storage, or electricity; public interest determination by department; and
25 by striking out lines 1 through 24 and inserting in place thereof the following:-

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

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

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

32 1 year without the approval of the department, unless such contract contains a provision
33 subjecting the price to be paid thereunder for gas or electricity to review and determination by
34 the department in any proceeding brought under section 93 or 94; provided, however, that
35 nothing in this section shall be construed as affecting a contract for the purchase of gas or
36 electricity from an entity engaged in manufacturing, where the manufacture, sale or distribution
37 of gas or electricity by the entity is a minor portion of the entity's business, and which contract is
38 made in connection with a contract to supply the entity with gas or electricity, or as affecting a
39 contract for the purchase of electricity from an alternative energy producer; further, that in any
40 such proceeding the department may review and determine the price to be thereafter paid for gas
41 or electricity under a contract containing said provision for review. Any contract covering a
42 period in excess of 1 year subject to approval as aforesaid, and that is not approved or that does
43 not contain said provision for review, shall be null and void. No gas company may contract for
44 electricity pursuant to this section and no electric company may contract for gas pursuant to this
45 section. The department is authorized to exempt any electric or generation company from any or
46 all of the provisions of this subsection upon a determination by the department, after notice and a
47 hearing, that an alternative process or incentive mechanism is in the public interest.

48 (b) As part of the review of a contract with a term of more than 1 year for gas pipeline
49 capacity or liquefied gas storage that requires the construction of new or expanded gas
50 infrastructure, the department shall determine whether such contract is in the public interest. The
51 department shall not approve such a contract unless, in its public interest determination, the
52 department finds that:

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

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

57 (iii) the applicant has identified and evaluated alternatives that would reduce or eliminate
58 the need for private land takings or public land disposition including, but not limited to, fuller
59 and more long-term utilization of existing gas infrastructure, distribution system repairs and
60 upgrades, contracts for gas storage along unconstrained pipeline corridors, enhancement of peak
61 shaving measures, and colocation of gas infrastructure with major roadways;

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

64 (c) The department shall not approve any gas pipeline capacity contract or liquefied gas
65 storage contract where new capacity is proposed to be created through the installation of gas
66 infrastructure in, upon or below land that, at the time the contract is submitted to the department
67 for approval, is protected under Article 97 of the Articles of Amendments to the Constitution of
68 the Commonwealth.

69 SECTION 4. Chapter 164 of the General Laws is hereby amended by inserting after
70 section 94I the following section:-

71 Section 94J. Nothing in this chapter shall authorize a gas company to contract for the
72 purchase of electricity, and nothing in this chapter shall authorize an electric company to contract
73 for the purchase of gas, gas pipeline capacity, or liquefied gas storage.

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

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

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

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

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

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

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