

HOUSE No. 3873

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 27, 2014.

The committee on Ways and Means to whom was referred the Bill relative to natural gas leaks (House, No. 3765), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3873).

For the committee,

BRIAN S. DEMPSEY.

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In the Year Two Thousand Fourteen

An Act relative to natural gas leaks.

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 105A of chapter 164 of the General Laws, as appearing in
2 the 2012 Official Edition, is hereby amended by striking out the second paragraph and inserting
3 in place thereof the following paragraph:-

4 Any person, firm or corporation who violates any provision of any code adopted by the
5 department pertaining to the safety of pipeline facilities and the transportation of gas, or any
6 regulation or rule thereunder, at a time when the department has submitted and has in effect the
7 annual certification to the United States Secretary of Transportation provided for in section 5(a)
8 of the Natural Gas Pipeline Safety Act of 1968, as amended, (see section 60101 et seq. of Title
9 49 of the United States Code), shall be subject to civil penalties as specified in section
10 60122(a)(1) of Title 49 of the United States Code, as amended, or any successor statute enacted
11 into federal law for the same purposes as said section 60122(a)(1).

12 SECTION 2. Said chapter 164 of the General Laws is hereby further amended by
13 inserting the following 2 sections:-

14 Section 144. (a) There shall be established uniform natural gas leak classification
15 standards in the commonwealth for all natural gas companies.

16 (b) All reported gas leaks shall be assessed a grade based on the following system:

17 (1) Grade 1. A leak that represents an existing or probable hazard to persons or property.
18 Such a leak requires repair and continuous action until the conditions are no longer hazardous.
19 Completion of repairs shall be scheduled immediately and the condition kept under continuous
20 surveillance until the hazard or source of the leak is eliminated.

21 (2) Grade 2. A leak that is recognized as non-hazardous to persons or property at the
22 time of detection, but justifies scheduled repair based on probable future hazard. Grade 2 leaks
23 shall be repaired or cleared within 12 months from the date the leak was classified. The
24 frequency of reevaluation shall be determined by the location and magnitude of the leakage
25 condition; provided, however, that all Grade 2 leaks shall be reevaluated at least once every 6
26 months until eliminated.

27 (3) Grade 3. A leak that is recognized as non-hazardous to persons or property at the
28 time of detection and can be reasonably expected to remain non-hazardous. Grade 3 leaks shall
29 be reevaluated during the next scheduled survey, or within 12 months of the date last evaluated,
30 whichever occurs first, until the leak is eliminated or main replaced. A municipal or state public
31 safety official may request a reevaluation of a Grade 3 leak prior to the next scheduled survey, or
32 sooner than 12 months of the date last evaluated, if there exists a reasonable belief on behalf of
33 the official that the Grade 3 leak poses a threat to public safety.

34 (c) Upon the undertaking of a significant project involving the repair or paving of a
35 public way exposing confirmed natural gas infrastructure, a municipality or the commonwealth
36 shall submit written notification of the project to a gas company. The gas company shall survey
37 the project area for the presence of Grade 1 or Grade 2 leaks and set repair and replacement
38 schedules for any known or newly detected Grade 1 or Grade 2 leaks. A gas company may repair
39 any known or newly detected Grade 3 leaks at its discretion or after consultation with the
40 municipality or the commonwealth. The repair and replacement schedule of Grade 1 and Grade
41 2 leaks shall be provided to the municipality or the commonwealth and shall include a
42 notification of the presence of any Grade 3 leaks that were detected during the survey.

43 (d) Gas companies shall prioritize any required pipeline repairs under this section for gas
44 leaks detected within a school zone. For the purposes of this section, the term “school zone”
45 shall mean on or within fifty feet of the real property comprising a public or private accredited
46 preschool, accredited Head Start facility, elementary, vocational, or secondary school.

47 (e) On or before March 1, each gas company shall report annually to the department the
48 location of each Grade 1, Grade 2 and Grade 3 leak existing as of the date of the report, the date
49 each Grade 1, Grade 2 and Grade 3 leak was classified, and the dates of repairs performed on
50 each Grade 1, Grade 2 and Grade 3 leak as part of its service quality standards report required by
51 section 11 of this chapter. A gas company shall specify any reclassification of previously
52 identified leaks in its annual report. Gas leak information shall be made available to any
53 municipal or state public safety official upon written request to the department.

54 (f) The department shall promulgate regulations necessary to implement the uniform leak
55 classification standards as specified in this section, and shall oversee and monitor company
56 response and reporting.

57 Section 145. The department shall investigate whether it should require the winter
58 surveillance and patrol of cast iron gas pipelines in the commonwealth, and shall determine
59 whether the presence of extended frost cap conditions may result in additional stress on cast iron
60 pipe segments, requiring enhanced surveillance and patrol. The department is authorized to
61 establish minimum uniform procedures for cast iron winter surveillance and patrols consistent
62 with any federally mandated standards for integrity management programs for distribution
63 pipelines. Gas companies are authorized to establish procedures that exceed any minimum
64 standards, subject to applicable filing requirements with the department.

65 SECTION 3. Said chapter 164 of the General Laws is hereby further amended by
66 inserting the following section:-

67 Section 146. (a) For the purposes of this section, the following words shall, unless
68 context clearly indicates otherwise, have the following meanings:-

69 “Customer”, a retail natural gas customer.

70 “Eligible infrastructure replacement”, a replacement or an improvement of existing
71 infrastructure of a gas company that: (1) is made on or after January 1, 2015; (2) is designed to
72 improve public safety or infrastructure reliability; (3) does not increase the revenue of a gas
73 company by connecting an improvement solely for the purpose of serving new customers; (4)
74 reduces, or has the potential to reduce, lost and unaccounted for natural gas losses through a
75 reduction in natural gas system leaks; and (5) is not included in the current rate base of the gas
76 company as determined in the gas company’s most recent rate proceeding, or included in any
77 other targeted infrastructure replacement program previously approved by the department.

78 “Plan”, an infrastructure replacement program construction plan that a gas company files
79 under subsection (b) of this section.

80 “Project”, an eligible infrastructure replacement project proposed by a gas company in a
81 plan filed under this section.

82 (b) A gas company may file with the department a targeted infrastructure replacement
83 plan to address aging or leaking natural gas infrastructure within the commonwealth in the
84 interest of public safety and reducing unaccounted for gas.

85 (c) Any plan filed with the department shall include, but not be limited to, (1) eligible
86 infrastructure replacement of mains, services, meter sets and other ancillary facilities composed
87 of non-cathodically protected steel, cast-iron and wrought iron, prioritized to implement the
88 federal pipeline safety distribution integrity management plan annually submitted to the
89 department and consistent with 49 C.F.R. 192; (2) an anticipated timeline for the completion of
90 each eligible infrastructure replacement project; (3) the estimated cost of each project; (4) rate

91 change requests; (5) a description of customer benefits under the plan; and (6) any other
92 information the department considers necessary to evaluate the plan.

93 (d) Provided that a gas company files a plan on or before October 31 of each calendar
94 year for the subsequent construction year, the department shall review the plan within 6 months.
95 The plan shall be effective as of the date of filing, pending department review, unless a new plan
96 is filed by the gas company or under the direction of the department within the 6 month review
97 period. The department shall consider the costs and benefits of the plan, including, but not
98 limited to, impacts on ratepayers, reductions of unaccounted for gas and improving public safety,
99 and give priority to plans narrowly tailored to addressing leak-prone infrastructure most
100 immediately in need of replacement.

101 (e) If a plan in in compliance with this section and is determined by the department to
102 reasonably accelerate eligible infrastructure replacement and provide public safety benefits, the
103 department shall issue preliminary acceptance of the plan, in whole or in part. A gas company
104 shall then be permitted to begin recovery of the estimated costs of projects included in the plan
105 commencing on May 1 of the year following the initial filing and collect any revenue
106 requirement, including depreciation, property taxes and return associated with the plan.

107 (f) On or before May 1 of each year, a gas company shall file final project documentation
108 to demonstrate substantial compliance with the plan and that project costs were reasonably and
109 prudently incurred. The department shall investigate project costs within 6 months of submission
110 and shall approve and reconcile the authorized rate factor, if necessary, upon a determination that
111 such costs were reasonable. Annual changes in the revenue requirement eligible for recovery
112 shall not exceed 1.5 per cent of the company's most recent calendar year total firm revenues,
113 including gas revenues attributable to sales and transportation customers. Any revenue
114 requirement approved by the department in excess of the cap may be deferred for recovery in the
115 following year, subject to the cap.

116 (g) All rate change requests made to the department pursuant to an approved plan shall be
117 filed annually on a fully reconciling basis. A gas company shall file reconciliation adjustment
118 rates, which shall be subject to investigation by the department under subsection (f) to determine
119 whether the company has over-collected or under-collected its requested rate adjustment. The
120 reconciliation adjustment rates shall become effective pursuant to department order pending the
121 investigation pursuant to subsection (f).

122 (h) The department shall promulgate rules and regulations in accordance with this
123 section, including a procedure which discontinues the replacement program and allows the
124 refund from a gas company any costs charged to customers due to failure to substantially comply
125 with a plan or failure to properly manage project costs.

126 SECTION 4. On or before January 1, 2015, the department of public utilities shall permit
127 a gas company to design and offer programs to customers which increase the availability,
128 affordability and feasibility of natural gas service for new customers.

129 (a) As part of the department's approval of a program and prior to implementation, the
130 department shall: (1) review each gas company's process for determining if a main or service
131 extension is economically feasible; (2) review each company's contribution in aid of
132 construction policy and methodology; and (3) allow for alternative rate mechanisms or company
133 project review methodology that facilitate access to natural gas service for new customers,
134 including, but not limited to, new area surcharges for zones of new off-main customers;
135 provided, however, that natural gas distribution system expansion surcharges, except alternative
136 rate mechanisms, shall not unreasonably burden existing customers. Guidelines established under
137 this subsection shall outline the department's methods and procedures for reviewing proposals,
138 including factors the department will consider for program or policy approval.

139 (b) Gas companies may petition the department independently, or in coordination with
140 the department of energy resources, to approve: (1) financing programs for customer natural gas
141 conversion costs repaid on participating customer bills; (2) other financing programs as
142 petitioned by a gas company; or (3) other cost effective programs that reasonably accelerate the
143 expansion of and conversion to natural gas usage in the commonwealth; provided that such
144 programs do not unreasonably burden existing natural gas customers.

145 (c) The department shall issue a decision on gas company expansion programs filed with
146 the department pursuant to subsection (a) within 8 months of the filing date. Gas companies shall
147 file appropriate tariff changes and otherwise implement any gas expansion programs or policies
148 approved under this section.

149 (d) The department shall consider programs that are likely to accelerate the conversion to
150 natural gas usage for low income consumers currently eligible for the LIHEAP program,
151 including programs that exempt new residential low income heating customers from any new
152 area surcharge developed under this section. Notwithstanding subsection (b) of this section, the
153 department may approve alternative methods of cost recovery by a gas company for such low
154 income programs, policies or exemptions including impacts to uncollectible costs.

155 SECTION 5. Section 3 shall take effect on October 1, 2014.