

SENATE No. 1779

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

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 relative to transparency in private utility construction contracts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael O. Moore	Second Worcester
Barbara A. L'Italien	Second Essex and Middlesex
Mary S. Keefe	15th Worcester
Timothy R. Whelan	1st Barnstable
Jason M. Lewis	Fifth Middlesex
Michael F. Rush	Norfolk and Suffolk
Thomas M. McGee	Third Essex
Keiko M. Orrall	12th Bristol
Eric P. Lesser	First Hampden and Hampshire
John F. Keenan	Norfolk and Plymouth
Brian A. Joyce	Norfolk, Bristol and Plymouth
Brendan P. Crighton	11th Essex

SENATE No. 1779

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1779) of Michael O. Moore, Barbara L'Italien, Mary S. Keefe, Timothy R. Whelan and other members of the General Court for legislation relative to transparency in private utility construction contracts. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2182 OF 2013-2014.]

The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
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An Act relative to transparency in private utility construction contracts.

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 164 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after Section 76D the following section:-

3 Section 76E. (a) As used in this section, the following words shall, unless the context
4 otherwise requires, have the following meanings:—^{[[]]}_{SEP}

5 “Company”, a gas or distribution company^{[[]]}_{SEP}

6 “Contract”, any agreement for the procurement of services specified under subsection (b),
7 regardless of what the parties call the agreement.

8 “Responsible bidder”, a person who has the capability to perform fully the contract
9 requirements, and the integrity and reliability which assures good faith performance. [SEP]

10 “Score”, the quantitative or qualitative rating or method utilized by the company to award
11 a contract

12 (b) When entering into a contract in the amount of \$100,000 or more for services related
13 to the excavation or construction upon, along, under, or across any public way, each company
14 shall be subject to this section.

15 (c) A company shall (1) within two business days after the decision has been made,
16 inform any responsible bidder which submitted a bid of its decision in relation to the award of a
17 contract, and shall do so by notice in writing by the most rapid means of communication
18 possible; and (2) post the winning bid on its website with (i) the name of the contractor, (ii)
19 winning amount, (iii) location of project.

20 (d) The written notice to each responsible bidder shall include (1) the criteria for the
21 award of the contract; and (2) the score obtained by the responsible bidder.

22 (e) Where there is only one response to a solicitation, a company need not comply with
23 this section.

24 (f) A company may withhold any information to be provided in accordance with the
25 section where the disclosure of such information (1) would impede law enforcement, (2) would
26 otherwise be contrary to the public interest, (3) would prejudice the legitimate commercial
27 interests of any responsible bidder; or (4) might interfere with competition between responsible
28 bidders.

29 (g) The department shall be responsible for enforcing this section, and may promulgate
30 regulations and issue orders it deems in the public interest regarding the procurement practices of
31 companies.