

SENATE No. 1788

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 decommissioning plans for electric generating facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>

SENATE No. 1788

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1788) of Michael J. Rodrigues, Patricia A. Haddad, Alan Silvia, Carole A. Fiola and others for legislation relative to decommissioning plans for electric generating facilities. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to decommissioning plans for electric generating facilities.

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 69G of chapter 164 is hereby amended by inserting after the
2 definition of “Construction” the following clause:

3 “Decommission(ing),” the permanent closure and discontinuation of the generation of
4 electric power, at a generating facility, as defined in Section 69G of chapter 164, including the
5 dismantlement, demolition, and removal of associated structures and equipment and remediation
6 of site contamination as required by applicable regulatory requirements prior to reuse of the site
7 for power generation and/or redevelopment for other commercial, industrial, residential, or
8 public uses.

9 Section 69G of chapter 164 is hereby amended by inserting after the definition of “Oil
10 facility” the following clause:

11 “Owner,” means any person who alone or in conjunction with others has legal ownership,
12 a leasehold interest, or effective control over the real property upon which a generating facility is
13 located, or the airspace above said real property; “owner” does not mean a mortgagee.

14 SECTION 2. The sixth paragraph of Section 69H of chapter 164 is hereby amended by
15 inserting after the clause “to approve or reject petitions to construct facilities and notices of
16 intention to construct an oil facility in accordance with the provisions of section sixty-nine J;”
17 the following clause:-

18 to either approve, with or without conditions, or reject petitions to decommission a
19 generating facility, fueled in whole or part by petroleum products, gas, or coal during some
20 period of its operations, in accordance with the provisions of section 69H¹/₄;

21 SECTION 3. Chapter 164 of the general laws, as so appearing, is hereby amended by
22 inserting after Section 69H, the following Section:-

23 Section 69H¹/₄. (a) The owner of a generating facility, fueled in whole or part by
24 petroleum products, gas, or coal during some period of its operations, hereinafter
25 “decommissioned facility,” shall decommission any such decommissioned facility in a timely
26 manner and in accordance with the conceptual decommissioning plan required pursuant to
27 subsection (b) and the final decommissioning plan approved by the board pursuant to subsection
28 (c). Notwithstanding any general or special law to the contrary, no owner of a generating facility
29 may seek recovery of any costs under this section in any rate proceeding before the department.

30 Before an owner may decommission a decommissioned facility, the owner shall submit a
31 petition, in accordance with subsection (c), to the energy facility siting board. After considering
32 the environmental impacts consistent with the minimization of costs associated with the

33 mitigation, control, and reduction of the environmental impacts of decommissioning the
34 decommissioned facility, the board may either approve, with or without conditions, or reject the
35 petition. The owner shall not proceed with decommissioning the decommissioned facility until it
36 receives written approval from the board. A decommissioned facility shall be deemed
37 decommissioned on the date of the board's written determination approving the owner's petition
38 to decommission. Upon written approval by the board, the owner shall comply with the board's
39 written determination approving the petition to decommission.

40 (b) No later than one year after the effective date of regulations promulgated by the
41 board in accordance with subsection (d), the owner of a decommissioned facility shall submit to
42 the board for review and comment, a conceptual decommissioning plan that includes a narrative
43 description of the activities necessary to decommission the generating facility described in
44 subsection (a), and includes the following features:

45 i. all actions necessary to remediate all oil and hazardous materials, hazardous
46 waste, solid waste and asbestos containing material, in accordance with chapter 21, chapter 21C,
47 chapter 21E, sections 150A, and 150A ½ of chapter 111 and sections 142A-N of chapter 111 of
48 the general laws;

49 ii. an environmental site assessment and plans for removal and proper disposal of all
50 plant, property, and equipment in accordance with all applicable local and/or state building codes
51 and other requirements; and

52 iii. a financial assurance mechanism, in a form acceptable to the board, to fulfill the
53 terms of the conceptual decommissioning plan.

54 The board may submit comments to the owner within 60 days from receipt of the
55 conceptual decommissioning plan.

56 (c) When the owner proceeds to decommission its generating facility, then prior to said
57 decommissioning, the owner shall submit a petition to the board that shall include, at a
58 minimum: (1) acknowledgment by the ISO New England, Inc. that such facility is or will be
59 decommissioned and is no longer necessary for the reliable supply of electric power to the New
60 England region; (2) an environmental site assessment to evaluate the extent of any adverse site
61 impacts on the environment as a result of construction and operation of a decommissioned
62 facility and prior uses of the site; and (3) a final decommissioning plan that includes:

63 i. a final report containing the findings of the environmental site assessment
64 required under Section (b)(ii) above;

65 ii. a proposed schedule of remedial or corrective actions, as required based on the
66 final assessment or other information as required in the previous subsection and in accordance
67 with chapter 21, chapter, 21C, chapter 21E, sections 150A and 150A1/2 of chapter 111, and
68 sections 142A-N of chapter 111 of the general laws;

69 iii. a commitment by the owner of the decommissioned facility/ to fulfill a proposed
70 schedule of required actions necessary to dismantle, demolish and remove plant structures and
71 equipment associated with said decommissioned facility;

72 iv. final plans, if necessary, based upon deviations from the conceptual
73 decommissioning plans and/or the actions required under chapter 21, chapter 21C, chapter 21E,
74 sections 150A and 150A1/2 of chapter 111, and sections 142A-N of chapter 111 of the general
75 laws;

76 v. a description and schedule of proposed post-closure maintenance, monitoring and
77 assessment activities necessary to protect the public health, safety and the environment;

78 vi. all actions necessary to remediate all oil and hazardous waste, hazardous material,
79 solid waste and asbestos containing material, in accordance with chapter 21, chapter 21C,
80 chapter 21E, sections 150A and 150A1/2 of chapter 111, and sections 142A-N of chapter 111 of
81 the general laws;

82 vii. a redevelopment plan prepared in consultation with the appropriate municipal
83 officials, such as the mayor, city council, selectmen or town manager, wherein said
84 decommissioned facility is located that identifies beneficial and feasible future uses of the site
85 and the intended process to effect such uses;

86 viii. a financial assurance mechanism, in a form acceptable to the board, to fulfill the
87 terms of the decommissioning plan;

88 ix. a commitment by the owner to make payments in lieu of taxes for a period of not
89 less than five years after decommissioning; and

90 x. due consideration of any comments submitted to the owner after board review of
91 the conceptual decommissioning plan submitted pursuant to subsection (b), and how those
92 comments have been addressed.

93 If the owner of the decommissioned facility fails to comply with the approved final
94 decommissioning plan, then the board may take the appropriate action to enforce the
95 requirements contained in the approved final decommissioning plan.

96 (d) Within nine months from the effective date of this section, the board, in consultation
97 with the Department of Environmental Protection, shall promulgate such rules and regulations as
98 are necessary to carry out the provisions of this section.

99 SECTION 4. Section 69J¹/₄ of Chapter 164 of the general laws, as so appearing, is
100 hereby amended by inserting the following replacement clause at the end of the third paragraph:
101 (v) any other information necessary to demonstrate that the generating facility meets the
102 requirements for approval specified in this section, including the development of a financial
103 assurance mechanism ensure the proper decommissioning of the facility; and advance
104 preparations for the submission to the board of a decommissioning plan upon retirement of the
105 generating facility. Before an owner retires a generating facility that filed a petition and received
106 approval from the board under this section on or after June 15, 2013, the owner shall submit a
107 petition to decommission to the board, which the board may either approve, with or without
108 conditions, or reject, in accordance with chapter 164 section 69H1/4(a) -(c). The owner shall not
109 proceed with decommissioning until it receives approval of the Board. The board may consult
110 with other agencies of the Commonwealth or affected municipalities in reviewing the
111 decommissioning plan.

112 SECTION 5. Section 69J¹/₄ of Chapter 164 of the general laws, as so appearing, is
113 hereby amended by repealing the (iv) clause of the first sentence of the fifth paragraph and
114 inserting the following replacement (iv) clause of the first sentence of the fifth paragraph: (iv)
115 such plans, including the eventual decommissioning of the generating facility, fueled in whole or
116 part by petroleum products, gas, or coal during some period of its operations ,which minimize
117 the environmental impacts consistent with the minimization of costs associated with the

118 mitigation, control, and reduction of the environmental impacts of the proposed generating
119 facility;