

HOUSE No. 3400**The Commonwealth of Massachusetts**

PRESENTED BY:

Stephen Kulik

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:	DATE ADDED:
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>1/20/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2017</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/20/2017</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>1/26/2017</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	
<i>James R. Miceli</i>	<i>19th Middlesex</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	

<i>William C. Galvin</i>	<i>6th Norfolk</i>	
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	
<i>Natalie Higgins</i>	<i>4th Worcester</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	
<i>Brian Murray</i>	<i>10th Worcester</i>	
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	
<i>Byron Rushing</i>	<i>9th Suffolk</i>	
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	
<i>Carlos González</i>	<i>10th Hampden</i>	
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	
<i>Adrian Madaro</i>	<i>1st Suffolk</i>	
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Angelo J. Puppola, Jr.</i>	<i>12th Hampden</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	

<i>Christopher M. Markey</i>	<i>9th Bristol</i>	
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	
<i>James M. Murphy</i>	<i>4th Norfolk</i>	
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Paul Tucker</i>	<i>7th Essex</i>	
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	
<i>James J. O'Day</i>	<i>14th Worcester</i>	
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	
<i>John H. Rogers</i>	<i>12th Norfolk</i>	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	

HOUSE No. 3400

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 3400) of Stephen Kulik and others relative to 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) has secured a final, unappealable adjudication of an order granting the applicable 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.