

SENATE No. 2151

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

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 providing for natural gas workforce safety.

PETITION OF:

NAME:

Paul W. Mark

DISTRICT/ADDRESS:

*Berkshire, Hampden, Franklin and
Hampshire*

SENATE No. 2151

By Mr. Mark, a petition (accompanied by bill, Senate, No. 2151) of Paul W. Mark for legislation to provide for natural gas workforce safety. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act providing for natural gas workforce safety.

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 1E of Chapter 164 of the General Laws shall hereby be amended by striking out
2 said section and replacing it with the following section-:

3 Section 1E

4 (a) The department is hereby authorized to promulgate rules and regulations to establish
5 and require performance-based rates for each distribution, transmission, and gas company
6 organized and doing business in the commonwealth pursuant to the provisions of this chapter. In
7 promulgating such performance-based rate schemes, the department shall establish service
8 quality standards for each distribution, transmission, and gas company, including, but not limited
9 to, standards for customer satisfaction service outages, distribution facility upgrades, repairs and
10 maintenance, telephone service, billing service, public safety, occupational safety, training and
11 certifications for both in-house and contractor employees, map and record accuracy, and in-
12 house staffing benchmarks sufficient to ensure pipeline safety through the period of transition to

13 net zero emissions. provided, however, that such service quality standards shall include
14 benchmarks for employee staff levels and employee training programs for each such distribution,
15 transmission, and gas company.

16 In addition, the department shall require each gas company, as part of performance-based
17 rate making, require each gas company to submit a just transition plan, which must be approved
18 by the department, to address workforce development, maintenance and attrition over the course
19 of the transition to net zero emissions generally, and the PBR period specifically, and provide for
20 the following:

21 (1). A detailed proposed chronology for transition to net zero emissions energy supply
22 and distribution to be set through performance-based rate making;

23 (2). Sufficient in-house staffing levels, in each relevant classification, to ensure the safety
24 and reliability of the gas company's pipeline through the projected transition period;

25 (3). Training and workforce development plans providing for gas company workforce
26 needs on residual natural gas and electric as well as alternative energy sources, generation and
27 distribution infrastructure utilized by the gas company to replace and/or complement natural gas;

28 (4). Any and all mitigation measures to address the impacts of transition—e.g., attrition,
29 retrenchment—on the gas company's workforce over the course of the PBR—including, but not
30 limited to—cross-training and hiring preferences at dual-fuel companies and joint ventures with
31 renewable energy generators/distributors, early retirement incentives;

32 (5). In the event of the gas company's anticipated substantial partial or complete
33 cessation of gas operations in Massachusetts during the period in which PBR is effective:

34 (i) Means by which the gas company, and/or its parent corporation intends to avoid
35 burdening the Commonwealth, its ratepayers, and taxpayers with the social welfare costs
36 resulting from such cessation;

37 (ii) Measures to ensure the solvency of the LDC pension system during and after
38 transition;

39 (iii) Measures to stem the displacement of LDC employees attrited as a result of the
40 transition from the Massachusetts energy sector.

41 Nothing in this section shall prohibit or supplant the LDC's collective bargaining
42 obligations relative to the National Labor Relations Act.

43 (b) In complying with the service quality standards and employee benchmarks
44 established pursuant to this section, a distribution, transmission, or gas company that makes a
45 performance based rating filing after the effective date of this act shall not be allowed to engage
46 in labor displacement or reductions below staffing levels in existence on January 1, 2022, unless
47 such are fully compliant with any law supporting a just transition to net zero emissions and part
48 of a collective bargaining agreement or agreements between such company and the applicable
49 organization or organizations representing such workers, or with the approval of the department
50 following an evidentiary hearing at which the burden shall be upon the company to demonstrate
51 that such staffing reductions shall not adversely disrupt service quality standards or public safety
52 and shall maintain reliable service through the transition to net zero emissions as established by
53 the department herein. Nothing in this paragraph shall prevent the reduction of forces below the
54 January 1, 2022 level through early retirement and severances negotiated with labor
55 organizations before said date.

56 (c) The department shall promulgate regulations relative to an alternative dispute
57 resolution process for the handling of damage claims by customers in an amount under \$100.
58 The department shall establish a 60-day timeline for the resolution of all mediation claims. The
59 department shall issue a biannual report to the joint committee on telecommunications, utilities,
60 and energy which shall include, but not be limited to, the following information: the nature of
61 consumer claims, the number of consumer claims and the resolutions of consumer claims
62 reviewed by the department during the previous 6 months. Said report shall be available for
63 public review at the department.”

64 Section 2. Section 145 of Chapter 164 is hereby amended by striking out said section and
65 replacing it with a new section:

66 Section 145.

67 (a) For the purposes of this section, the following words shall, unless the context clearly
68 requires 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: (i) is made on or after January 1, 2015; (ii) is designed to
72 improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas
73 company by connecting an improvement for a principal purpose of serving new customers; (iv)
74 reduces, or has the potential to reduce, lost and unaccounted for natural gas through a reduction
75 in natural gas system leaks; (v) is not included in the current rate base of the gas company as
76 determined in the gas company’s most recent rate proceeding; (vi) may include use of advanced
77 leak repair technology approved by the department to repair an existing leak-prone gas pipe to

78 extend the useful life of the such gas pipe by no less than 10 years; and (vii) may include
79 replacing gas infrastructure with utility-scale non-emitting renewable thermal energy
80 infrastructure.

81 “Plan”, a targeted infrastructure replacement program construction plan that a gas
82 company files pursuant to subsection (b).

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

85 (b) A gas company shall file with the department a plan to address aging or leaking
86 natural gas infrastructure within the commonwealth and the leak rate on the gas company’s
87 natural gas infrastructure in the interest of public safety and reducing lost and unaccounted for
88 natural gas through a reduction in natural gas system leaks. This plan shall include, but not be
89 limited to, provisions to ensure the gas company trains a sufficient, highly skilled, stable
90 workforce to repair and maintain the safety and reliability of its pipeline for the duration of its
91 useful life, until and including its retirement or re-purposing for alternative use. Each
92 company’s gas infrastructure plan shall include interim targets for the department’s review. The
93 department shall review these interim targets to ensure each gas company is meeting the
94 appropriate pace to reduce the leak rate and to replace the gas company’s natural gas
95 infrastructure in a safe and timely manner. The interim targets shall be for periods of not more
96 than 6 years or at the conclusion of 2 complete 3-year walking survey cycles conducted by the
97 gas company. The gas companies shall incorporate these interim targets into timelines for
98 removing all leak-prone infrastructure filed pursuant to subsection (c) and may update them
99 based on overall progress. The department may levy a penalty against any gas company that fails

100 to meet its interim target in an amount up to and including the equivalent of 2.5 percent of such
101 gas company's transmission and distribution service revenues for the previous calendar year.

102 (c) Any plan filed with the department shall include, but not be limited to: (i) eligible
103 infrastructure replacement of mains, services, meter sets and other ancillary facilities composed
104 of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the
105 federal gas distribution pipeline integrity management plan annually submitted to the department
106 and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the
107 completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v)
108 a description of customer costs and benefits under the plan; (vi) the relocations, where practical,
109 of a meter located inside of a structure to the outside of said structure for the purpose of
110 improving public safety; (vii) how the gas company intends to utilize its in-house workforce and
111 outside contractor crews, respectively, to perform construction; (viii) all oversight and quality
112 assurance measures implemented by the gas company on construction during the course of the
113 plan; (ix) all funds to be expended on training for its in-house on the construction and
114 maintenance of its pipeline; (x) any plans for the utilization of pipeline to satisfy the
115 Commonwealth's net zero emissions goals and aggregated data reflecting the projected impact of
116 the plans on the Commonwealth's net zero emissions goals; and (xi) any other information the
117 department considers necessary to evaluate the plan.

118 As part of each plan filed under this section, a gas company shall include a timeline for
119 removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement
120 pace and program end date with a target end date of: (i) not more than 20 years from the filing of
121 a gas company's initial plan; or (ii) a reasonable target end date considering the allowable
122 recovery cap established pursuant to subsection (f). The department shall not approve a timeline

123 as part of a plan unless the allowable recovery cap established pursuant to subsection (f) provides
124 the gas company with a reasonable opportunity to recover the costs associated with removing all
125 leak-prone infrastructure on the accelerated basis set forth under the timeline utilizing the cost
126 recovery mechanism established pursuant to this section. After filing the initial plan, a gas
127 company shall, at 5-year intervals, provide the department with a summary of its replacement
128 progress to date, a summary of work to be completed during the next 5 years and any similar
129 information the department may require. The department may require a gas company to file an
130 updated long-term timeline as part of a plan if it alters the cap established pursuant to subsection
131 (f).

132 Section 3. Chapter 164 of the General Laws shall hereby be amended by inserting at the
133 end thereof the following new sections:

134 Section 149. In this chapter, unless the context otherwise requires, the following words
135 shall have the following meanings:

136 As used in this legislation, the term “Company” is interchangeable with the term
137 employer and refers to any local distribution company regulated under M.G.L. c. 164 § 3 and
138 distributing natural gas to ratepayers.

139 As used in this legislation, the term “Dual Fuel Company” refers to Companies who
140 distribute natural gas and one or more other form of energy to commercial, governmental, and/or
141 residential ratepayers.

142 As used in this legislation, the term “Alternative Energy Company” refers to Companies
143 that generate or distribute forms of energy production and use results in the production of lower
144 carbon emissions than conventional natural gas or electric energy.

145 As used in this legislation, “Commonwealth” refers to Commonwealth and/or its
146 departments, offices, agencies, political sub-divisions, and quasi-public agencies, including but
147 not limited to quasi-public agencies subject to said chapter 150A by chapter 760 of the acts of
148 1962 and any quasi-public independent entity and any authority or body politic and corporate
149 established by the general court to serve a public purpose.

150 Section 150: Every Company shall develop, and periodically amend a comprehensive
151 plan, as set forth in Section 149 to be filed with the Department of Public Utilities, for the hire,
152 retention, and training of a sufficient operations and maintenance workforce through 2050
153 addressing its plans to meet the Commonwealth’s net zero emissions goals and its plans to fulfill
154 this Chapter’s requirements to provide safe and reliable service as well as all other state and
155 Federal regulatory requirements. Such plan shall be amended bi-annually, beginning July 1,
156 2024. Each Company plan shall also provide projections for any attrition among its in-house
157 workforce and the utilization of outside contractors over both the biannual period and over the
158 course of the transition to net zero emissions.

159 Dual Fuel Companies must additionally provide, as part of their biannual plan, all
160 provisions, opportunities, and initiatives to provide training and employment opportunities to
161 workers who may be displaced by the Company’s compliance with the Commonwealth’s net
162 zero emissions goals.

163 The Department shall when initiated sua sponte or by motion of the Attorney General,
164 initiate an investigation to determine the sufficiency of the Company’s plan with regard to
165 meeting the Commonwealth’s net zero emission requirements and Chapter 164’s reliability,

166 safety, and staffing requirements. Such plans, and all backup data upon which the plans are
167 based, shall be subject to disclosure to all intervening stakeholders during the investigation.

168 Section 151. The Executive Office of Energy and Environmental Affairs and the
169 Executive Office of Labor and Workforce Development shall, joint and in collaboration,
170 administer programs, provide technical assistance, and develop regulations for a training fund to
171 support the establishment of apprenticeship programs to train Company employees on alternative
172 energy generation and distribution and raise the next generation of energy industry workers in
173 the Commonwealth.

174 Grants from the fund may be provided to Gas and Dual Fuel Companies for the
175 development and execution of training of their workforces on a competitive basis, based upon a
176 number of factors, including, but not limited to, the Company's demonstrated commitments to
177 (1) retaining and repurposing its highly skilled in-house gas workforce on a dual fuel or
178 alternative energy businesses, (2) maintaining high quality, longterm in-house employment
179 opportunities in energy distribution. Labor organizations representing Gas Company workers
180 and Dual Fuel Company workers may also apply for funding.

181 Alternative energy companies, including both generating or distributing companies, may
182 also apply for training grants from this fund to defray the cost of hiring and training workers
183 displaced by the Commonwealth's efforts to meet its net zero emissions goals. To qualify,
184 alternative energy companies must demonstrate that (1) they are developing and executing plans
185 for hiring, training, and retention that include a demonstrated commitment to training and hiring
186 gas company employees and other workers displaced by the Commonwealth's transition to net
187 zero emissions, (2) they have or are in the process of developing robust in-house training

188 programs in the Commonwealth on alternative energy, and (3) their commitment to the creation
189 and maintenance of high quality, sustainable employment opportunities for displaced workers.

190 Section 152. Per Capita Tax Credits for Dual Fuel and Alternative Energy Companies
191 Providing Suitable Employment to adversely affected workers.

192 Dual and alternative energy companies providing suitable employment in a comparable
193 occupation to adversely affected workers shall be eligible for tax credits on a per capita basis
194 based on the employment census over the course of the tax year. Such credits shall be
195 established, after rulemaking, by the Executive Office of Labor and Workforce Development and
196 the Department of Revenue no later than January 1, 2025.”

197 Section 4. Chapter 149 as appearing in the 2016 Official Edition of the General Laws is
198 hereby amended by inserting a new section:

199 Section 27J. All construction, reconstruction, installation, alteration, or repair on natural
200 gas utilities distribution infrastructure, including, but not limited to, pipelines, mains, and
201 services: (1) requiring the excavation, construction, reconstruction of public lands, rights of way,
202 public works, or buildings and (2) not performed by Gas Company employees, shall be
203 performed and procured under this section of chapter 149.

204 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
205 county, or a municipality, shall agree to pipeline construction, reconstruction, installation,
206 alteration or repair work by a gas distribution company requiring the excavation, alternation,
207 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
208 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to
209 individuals performing pipeline construction who are not gas company employees.

210 Any such approval which does not contain said stipulation shall be invalid, and no
211 construction may commence thereunder. Said rates of wages shall be requested of said
212 commissioner by said public official or public body together with the gas local distribution
213 company on whose service territory the public infrastructure lies, and shall be furnished by the
214 commissioner in a schedule containing the classifications of jobs, and the rate of wages to be
215 paid for each job. Said rates of wages shall include payments to health and welfare plans, or, if
216 no such plan is in effect between employers and employees, the amount of such payments shall
217 be paid directly to said employees. Such requests for rates shall be made every six (6) months.

218 Whoever pays less than said rates of wages, including payments to health and welfare
219 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
220 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
221 wages or health and welfare funds, shall have violated this section and shall be punished or shall
222 be subject to a civil citation or order as provided in section 27C.

223 An employee claiming to be aggrieved by a violation of this section may, 90 days after
224 the filing of a complaint with the attorney general, or sooner if the attorney general assents in
225 writing, and within 3 years after the violation, institute and prosecute in his own name and on his
226 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for
227 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150.

228 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
229 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
230 the litigation and reasonable attorneys' fees.

231 Section 5. Section 151A Chapter 149 as appearing in the 2016 Official Edition of the
232 General Laws is hereby amended by inserting a new Section at the end thereof:

233 Section 75. For the purposes of this section, the following words shall, unless the context
234 clearly requires otherwise, have the following meanings:--

235 “Adversely affected employment,” employment with an employer providing labor,
236 goods, and/or services facilitating the generation, distribution, or transmission of energy from
237 fossil fuels, including but not limited to the distribution of natural gas, which may be or are
238 adversely affected by the Commonwealth’s efforts to realize its net zero emissions goals.

239 “Adversely affected worker,” an individual who, because of lack of work in adversely
240 affected employment, has been totally or partially separated from such employment, or has been
241 threatened to be totally or partially separated from such employment.

242 “Adjustment assistance,” any compensation, credit, benefit, funding, training, or service
243 provided under this Section.

244 “Suitable employment,” at a wage that is not less than 90 percent of the wage the worker
245 received on the day before any partial or total separation.

246 “Applicable employer,”

247 an employer engaged in the generation, distribution/transmission of energy from fossil
248 fuels (“fossil fuel employer”);

249 an employer engaged in the generation, distribution, or transmission of fossil fuel energy
250 that also, either as a secondary component of its business or by corporate affiliation, generates,

251 distributes, or transmits another form of energy (“dual fuel employer”); distribute natural gas and
252 one or more other form of energy to commercial, governmental, and/or residential ratepayers or,
253 an employer providing labor, goods, and/or services in or to the renewable energy
254 industry (“alternative energy employer”).

255 “Partial separation,” with respect to an individual who has not been totally separated, that
256 such individual has experienced—

257 (i) a reduction in hours of work to 80 percent or less of the individual's average weekly
258 hours in adversely affected employment; and

259 (ii) a reduction in wages to 80 percent or less of the individual's average weekly wage in
260 such adversely affected employment.

261 “Threatened,” an individual who is aware of imminent total or partial separation from
262 employment with an applicable firm or with a company with which the applicable firm is
263 contracted to provide goods or services.

264 “Total separation,” the layoff or severance of an adversely affected worker.”

265 Section 6. Section 151A Chapter 149 as appearing in the 2016 Official Edition of the
266 General Laws is hereby amended by inserting the following new sections at the end thereof:

267 Section 76. In general DUA shall make payments of temporary additional unemployment
268 compensation for up to 104 additional weeks to adversely affected workers who have been
269 totally separated:

270 have exhausted all rights to regular unemployment compensation under the State law or
271 under Federal law with respect to a benefit year;

272 have no rights to regular compensation with respect to a week under such law or any
273 other State unemployment compensation law or to compensation under any other Federal law;
274 and

275 are able to work, available to work, and actively seeking work.

276 Exhaustion of benefits

277 For purposes of paragraph (1), an adversely affected individual shall be deemed to have
278 exhausted such individual's rights to regular compensation under a State law when—

279 (i) no payments of regular compensation can be made under such law because such
280 individual has received all regular compensation available to such individual based on
281 employment or wages during such individual's base period; or

282 (ii) such individual's rights to such compensation have been terminated by reason of the
283 expiration of the benefit year with respect to which such rights existed.

284 (3) Weekly benefit amount.

285 In general, subject to paragraph, for purposes of any agreement under this section—

286 the amount of temporary additional unemployment compensation that shall be payable to
287 any applicable individual for any week of total unemployment shall be equal to the amount of the
288 regular compensation (including dependents' allowances) payable to such individual during such
289 individual's benefit year under the State law for a week of total unemployment;

290 the terms and conditions of the State law which apply to claims for regular compensation
291 and to the payment thereof (including terms and conditions relating to availability for work,
292 active search for work, and refusal to accept work) shall apply to claims for temporary additional
293 unemployment compensation and the payment thereof; and

294 the maximum amount of temporary additional unemployment compensation payable to
295 any applicable individual is 156 weeks.

296 Section 77. Each applicable employer, as defined in Section 76 shall make contributions
297 as established by the Department of Unemployment Assistance, pursuant to its enabling
298 authority under Chapter 151A, into a newly established Clean Energy Just Transition
299 Unemployment Trust Fund to cover the cost of these benefits. The Department shall establish
300 contribution rates and schedules as well as all relevant regulations for the Just Transition Trust
301 Fund to ensure that it is fully funded and may be utilized by all adversely affected employees
302 who are terminated no later than January 1, 2025. The Department may also use funding from
303 the Trust Fund to establish programs and benefits for adversely affected workers to assist them in
304 obtaining training and replacement employment opportunities and to cover health insurance.