

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

John D. Keenan

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 passage of the accompanying bill:

An Act relative to natural gas leaks.

PETITION OF:

NAME:

John D. Keenan

DISTRICT/ADDRESS:

7th Essex

HOUSE No.

By Mr. Keenan of Salem, a petition (accompanied by bill, House, No. 2950) of John D. Keenan and others for legislation to establish winter patrol cast iron survey protocols for utility company inspections of gas pipelines. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

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. Chapter 143 of the General Laws, as appearing in the 2012 Official Edition, is
2 hereby amended by adding after section 3L the following new section:-
3 Section 3M. The board of fire prevention regulations shall make and promulgate, and from time
4 to time may alter, amend and repeal, rules and regulations relative to the establishment of
5 minimum safety standards for access, structural integrity, ventilation, and lighting of utility
6 transformer vaults located within buildings subject to the state building code. For the purposes of
7 this section, utility transformer vaults shall mean any totally enclosed structure or room in which
8 electrified network transformers, network protectors and related electrical equipment are housed.
9 The board shall require regular inspections of utility transformer vaults, conducted by a local
10 inspector and an employee of the electric company providing service to the building, to ensure
11 the enforcement of minimum safety standards.

12 SECTION 2. Section 1I of chapter 164 of the General Laws, as appearing in the 2012 Official
13 Edition, is hereby amended by inserting after the first sentence the following sentence:-
14 Each natural gas distribution company report shall include: (i) the percentage loss of natural gas
15 for the previous calendar year, as calculated under section 94J; (ii) measures taken, if any, to
16 reduce avoidable losses from pipelines, including, but not limited to, leakage, meter inaccuracies
17 and theft; and (iii) unavoidable losses, if any, from pipelines.

18 SECTION 3. Said chapter 164 is hereby further amended by inserting after section 94I the
19 following section:-
20 Section 94J. The department shall establish a formula for gas companies to use to calculate lost
21 and unaccounted for gas. A gas company, when filing a schedule required by section 94, shall
22 state the company's annual percentage of lost and unaccounted for natural gas for each year
23 subsequent to its most recent rate proceeding. The department shall establish an annual loss
24 benchmark for each gas company. A gas company shall recover, through rates, only the cost of
25 lost and unaccounted for gas that falls within the benchmark. The benchmark shall remain in
26 effect until the department approves a new schedule.

27 SECTION 4. Section 105A of said chapter 164 of the General Laws is hereby amended by
28 striking out the second paragraph and inserting in place thereof the following paragraph:-
29 Any person, firm or corporation who violates any provision of any code adopted by the
30 department pertaining to the safety of pipeline facilities and the transportation of gas, or any
31 regulation or rule thereunder, at a time when the department has submitted and has in effect the
32 annual certification to the United States Secretary of Transportation provided for in section 5(a)
33 of the Natural Gas Pipeline Safety Act of 1968, as amended, (see section 60101 et seq. of Title
34 49 of the United States Code), shall be subject to civil penalties as specified in section

35 60122(a)(1) of Title 49 of the United States Code, as amended, or any successor statute enacted
36 into federal law for the same purposes as said section 60122(a)(1).

37 SECTION 5. Said chapter 164 of the General Laws is hereby further amended by inserting the
38 following 4 sections:-

39 Section 144. (a) There shall be established a uniform natural gas leak classification standard in
40 the commonwealth for all natural gas companies.

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

42 (1) Grade 1. A leak that represents an existing or probable hazard to persons or property. Such a
43 leak requires repair and continuous action until the conditions are no longer hazardous.

44 Completion of repairs shall be scheduled immediately and the condition kept under continuous
45 surveillance until the hazard or source of the leak is permanently eliminated.

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

52 (3) Grade 3. A leak that is recognized as non-hazardous to persons or property at the time of
53 detection and can be reasonably expected to remain non-hazardous. Such leaks shall be
54 reevaluated during the next scheduled survey, or within 12 months of the date last evaluated,
55 whichever occurs first, until the leak is eliminated or main replaced. A Grade 3 leak requiring
56 immediate upgrade for scheduled repair shall apply to any nuisance Grade 3 leak, as defined by

57 the department, that is certified to be a public safety threat by a municipal or state public safety
58 official.

59 (c) Gas companies shall survey for the presence of gas leaks and set repair and or replacement
60 schedules whenever a municipality or the commonwealth, after adequate notification to a gas
61 company, undertakes a significant and confirmed project involving the repair and/or paving of a
62 public way exposing natural gas infrastructure, such gas company shall survey the project area
63 and repair or replace any known or newly detected Grade 1 or Grade 2 leak. Gas companies may
64 also repair any known or newly detected Grade 3 leaks at its discretion or after consultation with
65 such municipality or the commonwealth.

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

70 (e) Each gas company shall report annually to the department the location of each Grade 1,
71 Grade 2 and Grade 3 leak existing as of that date classified by the company, the date each Grade
72 1, Grade 2 and Grade 3 leak was classified, and the dates of temporary and permanent repairs
73 performed on each Grade 1, Grade 2 and Grade 3 leak as part of its service quality standards
74 report required by section 11 of this chapter. Gas companies shall specify any reclassification of
75 previously identified leaks in its annual report. Such gas leak information shall be made available
76 to any municipal or state public safety official upon written request to the department.

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

80 Section 145. The department shall investigate whether it should require the winter surveillance
81 and patrol of cast iron gas pipelines in the commonwealth, and shall determine whether the
82 presence of extended frost cap conditions may result in additional stress on cast iron pipe
83 segments, requiring enhanced surveillance and patrol. The department is authorized to establish
84 minimum uniform procedures for cast iron winter surveillance and patrols consistent with any
85 federally mandated standards for integrity management programs for distribution pipelines. Gas
86 companies are authorized to establish procedures that exceed any minimum standards, subject to
87 approval of the department.

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

90 “Customer”, a retail natural gas customer.

91 “Eligible infrastructure replacement”, a replacement or an improvement of existing infrastructure
92 of a gas company that:

93 1) is made on or after May 1, 2015;

94 2) is designed to improve public safety or infrastructure reliability;

95 3) does not increase the revenue of a gas company by connecting an improvement directly
96 to new customers;

97 4) reduces or has the potential to reduce lost and unaccounted for natural gas losses through
98 a reduction in natural gas system leaks;

99 5) is not included in the current rate base of the gas company as determined in the gas
100 company’s most recent rate proceeding, or included in any other targeted infrastructure
101 replacement program previously approved by the department.

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

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

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

109 (1) A plan shall include, but not be limited to, eligible infrastructure replacement of mains,
110 services, meter sets and other ancillary facilities composed of non-cathodically protected steel,
111 cast-iron and wrought iron, prioritized based on an assessment of the highest public safety risk
112 and largest number or volume of leaks as identified by the company.

113 (2) A plan shall also include:

- 114 a. A timeline for the completion of each eligible infrastructure replacement
115 project;
- 116 b. The estimated cost of each project;
- 117 c. Rate change requests;
- 118 d. A description of customer benefits under the plan, and;
- 119 e. Any other information the department considers necessary to evaluate the
120 plan.

121 (c) Provided that a gas company files a plan on or before October 31 of a calendar year, the
122 department shall review the plan within 6 months. The department shall consider the costs and
123 benefits of a plan, including, but not limited to, impacts on ratepayers, reductions of lost or
124 unaccounted for gas and improving public safety, and give priority to plans narrowly tailored to
125 addressing leak-prone infrastructure most immediately in need of replacement.

126 (d) If the plan complies with the requirements of this section and the department determines the
127 plan reasonably accelerates eligible infrastructure replacement and provides public safety
128 benefits, the department shall issue preliminary approval of the plan, in whole or in part, and
129 allow the gas company to begin recovery of the reasonable costs of such projects on May 1 of the
130 year following the filing of the plan to collect any revenue requirement, including depreciation,
131 property taxes and return associated with the plan.

132 (e) Within 1 year of a preliminary approval of a plan, the gas company shall file final project
133 documentation to demonstrate substantial compliance with plans and that project costs were
134 reasonably and prudently incurred. The department shall investigate such costs within 6 months,
135 and the department shall have the authority to approve and reconcile the authorized rate factor if
136 necessary upon a determination that such costs were reasonable; provided that:

- 137 1) the approved recovery factor shall include only costs of incremental replacement of leak-
138 prone gas infrastructure in excess of the depreciation expense allowed during the
139 company's last general rate case being recovered through current rates; and
- 140 2) the annual costs allowable shall not exceed 1 per cent of the company's most recent
141 calendar year distribution revenue.

142 (f) All rate change requests made to the department pursuant to said plans shall be filed annually
143 on a fully reconciling basis. The company shall file reconciliation adjustment rates, which shall
144 be subject to investigation by the department under subsection (e) to determine whether the
145 company has over-collected or under-collected its requested rate adjustment. Said reconciliation
146 adjustment rates shall become effective pursuant to department order pending the investigation
147 pursuant to subsection (e).

148 (g) The department shall promulgate rules and regulations in accordance with this section,
149 including a procedure which discontinues the replacement program and allows the refund from a
150 gas company any costs charged to customers due to poor management, failure to substantially
151 comply with the work plans, or failure to properly manage project costs.

152 Section 147. All gas companies shall make easily and immediately accessible any gate boxes
153 regulating gas distribution in the immediate vicinity of any Grade 1 or Grade 2 leak requiring
154 repair pursuant to section 144 of this chapter, any gate boxes connected to distribution mains
155 replaced pursuant to section 146 of this chapter, or any gate boxes connected to distribution
156 mains replaced as part of any targeted infrastructure replacement program approved by the
157 department.

158 SECTION 6. The department shall open a docket to examine methods to improve meter and
159 meter prover accuracy, including but not limited to, a method for determining meter and meter
160 prover accuracy, and a reasonable level of variance from accuracy. The department may
161 promulgate rules and regulations based on its findings.

162 SECTION 7. On or before January 1, 2015, the department of public utilities shall commence a
163 proceeding to investigate new programs and policies that will facilitate and increase the
164 availability, affordability, and feasibility of natural gas service for new customers.

165 (a) As part of the investigation under this section, the department shall: (1) review each gas
166 company's process for determining if a main or service extension is economic; (2) review
167 each company's contribution in aid of construction policy and methodology; and (3)
168 establish guidelines, if necessary, for alternative rate mechanisms or company project
169 review methodology that facilitate access to natural gas service for new customers,
170 including, but not limited to, new area surcharges for zones of new off-main customers;

171 provided that natural gas distribution system expansion surcharges shall not burden
172 existing customers. Guidelines established under this subsection shall outline the
173 department's methods and procedures for reviewing proposals, including factors the
174 department will consider for program or policy approval.

175 (b) The department of energy resources and gas companies may, as part of the investigation,
176 petition the department to approve: (1) financing programs for customer natural gas
177 conversion costs repaid on participating customer bills; (2) other financing programs as
178 petitioned by a gas company; or (3) other cost effective programs that reasonably
179 accelerate the expansion of and conversion to natural gas usage in the commonwealth;
180 provided that such programs do not unreasonably burden existing natural gas customers.

181 (c) The department shall complete its investigation under this section and shall issue an order
182 by January 1, 2016, including final determinations on gas company expansion programs
183 filed with the department pursuant to subsection (c). Gas companies shall file appropriate
184 tariff changes and otherwise implement any gas expansion programs or policies approved
185 under this section.

186 (d) The department shall prioritize programs that are likely to accelerate the conversion to
187 natural gas usage for low income consumers currently eligible for the LIHEAP program,
188 including programs that exempt new residential low income heating customers from any
189 new area surcharge developed under this section. Notwithstanding subsection (b) of this
190 section, the department may approve alternative methods of cost recovery by a gas
191 company for such low income programs, policies or exemptions.

192 SECTION 8. Section 146 of chapter 164 of the General Laws shall be effective October 1, 2014.

193 SECTION 9. Whereas, the department of public utilities determined additional electric
194 generation facilities are needed in the ISO New England Inc.'s Northeastern Massachusetts
195 Boston electric load zone; a new 674 megawatt, natural gas-fired, quick-start, combined-cycle
196 generating facility and any ancillary or related facilities has been proposed at 24 Fort Avenue,
197 Salem, Massachusetts to provide the needed electric generation in such load zone; the proposed
198 facility will ensure the beneficial remediation, redevelopment, and replacement of the existing,
199 retiring coal power plant, currently known as Salem Harbor Power Station as required by an act
200 relative to competitively priced electricity in the commonwealth; as part of the redevelopment,
201 the owner of the site will fully demolish the retired plant and address environmental remediation
202 of at such location in a manner consistent with condition F of the final decision of the energy
203 facilities siting board in docket EFSB 12-2 and special condition 3 of the decision of the
204 department of environmental protection in its decision on a variance request and written
205 determination with respect to the proposed facilities; the secretary of energy and environmental
206 affairs has determined the proposed facilities will provide clear public benefits; the energy
207 facilities siting board unanimously approved the construction of the proposed facilities in an
208 order in docket EFSB 12-2; the proposed facilities have obtained the unanimous approval of the
209 Salem conservation commission, Salem planning board and Salem zoning board of appeals in
210 obtaining local permits and variances, and the department of environmental protection has issued
211 a decision on variance request and written determination related to the proposed facilities'
212 Chapter 91 license and a proposed air quality approval and draft prevention of significant
213 deterioration permit ; the Salem harbor task force also established pursuant to an act relative to
214 competitively priced electricity in the commonwealth determined that the development of the
215 proposed facilities in Salem at this site is the highest and best use of the retiring power plant

216 location; the further delay in the development and construction of the proposed facilities could
217 result in brownouts, the need for higher cost emergency electricity transmission projects,
218 emergency requests for proposals to supply electricity that may come from more
219 environmentally detrimental facilities; damage to the overall reliability of the electric grid, and
220 significant public health and safety concerns which impact the commonwealth's compelling
221 public interests, the General Court finds that notwithstanding any general or special law, rule or
222 regulation to the contrary, the development, construction and operation of the proposed facilities
223 to be located on the site of the Salem Harbor Power Station at 24 Fort Avenue, Salem,
224 Massachusetts in the manner described in the final decision in EFSB 12-2 is in the
225 commonwealth's public interest and is approved and further determines that:

- 226 1) the construction and operation of the proposed facilities at said location shall be exempt
227 from the requirements of G.L. c. 164, §69J^{1/4}, provided, however, that the energy
228 facilities siting board shall retain authority to implement and enforce compliance with the
229 requirements and conditions of the final decision in EFSB 12-2 and to review and
230 approve any modifications or revisions to the construction or operation of the proposed
231 facilities as are otherwise subject to its jurisdiction; and
- 232 2) that the construction and operation of the proposed facilities at said location shall be
233 exempt from the requirements of G.L. c. 40A, provided, however, that the city of Salem
234 planning board and zoning board of appeal shall retain authority to implement and
235 enforce compliance with the requirements and conditions of the Planned Unit
236 Development Special Permit Site Plan Review, and Flood Hazard District Special Permit
237 Decision issued by the Salem planning board on August 1, 2013 and the Decision by the
238 Salem zoning board of appeals on June 28, 2013 and to review and approve any

239 modifications or revisions to the construction or operation of the proposed facilities as are
240 otherwise subject to their jurisdiction ; and

241 3) that the construction and operation of the proposed facilities at said location shall be
242 exempt from the requirements of G.L. c. 111, Section 142 A-J, c. 21C, Section 4 and 6,
243 and c. 21E, Section 6, provided, however, that the department of environmental
244 protection retain authority to implement and enforce compliance with requirements and
245 conditions of the proposed air quality approval and draft prevention of significant
246 deterioration permit issued by the department of environmental protection in Transmittal
247 No. X254064, Application No. NE-12-022 and to review and approve any modifications
248 to the construction or operation of the proposed facilities as are otherwise subject to its
249 jurisdiction; and

250 4) that the construction and operation of the proposed facilities at said location shall be
251 exempt from the requirements of G.L. c. 91, provided, however, that the department of
252 environmental protection shall retain authority to implement and enforce compliance with
253 requirements and conditions of the decision on variance request and written
254 determination issued by the department of environmental protection in waterways file no.
255 W-13-3886-N and to review and approve any modifications to the construction and
256 operation of the proposed facilities as are otherwise subject to its jurisdiction; and

257 5) that the developer of the proposed facilities is hereby granted a composite of all state and
258 local permits, approvals and authorizations that would otherwise be necessary for the
259 construction and operation of the proposed facilities at said location with the same effect
260 as a certificate granted pursuant to G.L. c. 164, §69K1/2.

261 This section and the exemptions granted hereunder shall not apply to any other proposed uses or
262 facilities at said location.