



H.3400/S.1847: An act clarifying authority & responsibilities of the Department of Public Utilities

Massachusetts can meet our energy needs with efficiency, clean energy and smart planning, but stakeholders invested in industries of the past continue to seek to force consumers to fund massive pipeline expansion. Despite significant threats to consumers, the state's Department of Public Utilities (DPU) has routinely sided with the fossil fuel industry, fighting to curb renewable energy, pushing to charge consumers to fund pipeline expansion, and rejecting meaningful public participation in its decision-making processes.

The grid operator, ISO New England, has recently released a fuel security study which suggests inaction on energy is not an option: we either need to expand clean energy or build out substantial gas infrastructure. The Attorney General of Massachusetts and Consumer Advocate of New Hampshire oppose any scheme that results in electric ratepayers funding pipeline expansion.

S.1847/H.3400 primarily focuses on the DPU's role as gatekeeper to interstate gas infrastructure projects. This proposed legislation would accomplish the following:

- Allow for more involvement from impacted communities and ratepayers in DPU proceedings
- Protect ratepayers against self-dealing by energy conglomerates
- Require consideration of siting impacts and detailed alternative analysis, including protections to conservation lands
- Codify the August 2016 ruling by the Supreme Judicial Court, which found that a proposal by MA DPU violated the 1997 Restructuring Act and put consumers at risk
- Protect landowners from avoidable intrusion by pipeline companies

Even though the Federal Energy Regulatory Commission (FERC) is the lead agency for interstate gas pipeline siting and approval, states retain important roles in the financing and permitting of these projects. The DPU reviews and approves the pipeline capacity contracts that utilities enter into with pipeline developers. These contracts are the financial foundation for pipeline projects. Approved contracts are the primary (if not only) factor that FERC considers in establishing whether there is a "need" for a pipeline.

Therefore, this legislation is being proposed to enhance the review of these contracts and address other needed reforms identified over the course of proceedings for previously proposed pipeline expansions.

Over 120 state legislators have signed on in support of this legislation.

This legislation is critical to ensure we do not overbuild gas pipelines and instead take a consumer-friendly, clean energy pathway forward.

Section-by-Section Summary of S.1847/H.3400

SECTION 1 – Intervention at DPU: Amends Chapter 30A of MGL to guarantee ratepayer groups, communities and legislators the right to intervene in DPU proceedings.

SECTION 2 – Affiliate Transactions: Requires heightened scrutiny of affiliated transactions, creating a rebuttable presumption against their approval.

SECTION 3 – Gas Capacity Contract Approval: Creates statutory standards for approval of capacity contracts entered into by gas utilities, requiring consideration of environmental, health, and other impacts, and a significant alternatives analysis.

SECTION 3(c) – Preservation of Conservation Land: Prohibits approval of contracts that would enable gas infrastructure to be installed in Article 97 land.

SECTION 4 – Prohibition of “Pipeline Tax” on Electric Ratepayers: Codifies Supreme Judicial Court ruling that electric companies cannot contract for gas capacity.

SECTION 5 – Consideration of Gas Demand in Siting Intrastate Projects: Removes language that prohibits the DPU or EFSB from requiring a hearing to gather information pertaining to gas demand when considering approval of a facility.

SECTION 6 – Pipeline Surveys: Prevents the DPU from granting a pipeline company access to property (superseding landowner denial of access) for surveying, unless and until the company has obtain a certificate of necessity for the project.