

**SENATE . . . . . No. 1773**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Brian A. Joyce*

*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 competition and municipalization.

PETITION OF:

NAME:

*Brian A. Joyce*

DISTRICT/ADDRESS:

*Norfolk, Bristol and Plymouth*

**SENATE . . . . . No. 1773**

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By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1773) of Brian A. Joyce for legislation to regulate the establishment of municipal lighting plants. Telecommunications, Utilities and Energy.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1600 OF 2013-2014.]

The Commonwealth of Massachusetts

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

An Act relative to competition and municipalization.

*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 164 of the General Laws, as appearing in the 2012 Official Edition,  
2 is hereby amended by striking out section 1B and inserting in place thereof the following  
3 section:-

4 Section 1B. (a) Service territories for each distribution company shall be based on the  
5 service territories actually served on January 1, 2015, following to the extent possible municipal  
6 boundaries, until altered by effect of law or by the competitive bidding process described in  
7 subsection (e). Until terminated by effect of law or otherwise, the distribution company shall  
8 have the exclusive obligation to provide distribution service to all retail customers within its  
9 service territory, and no other person shall provide distribution service within such service

10 territory without the written consent of such distribution company which shall be filed with the  
11 department and the clerk of the municipality so affected.

12 (b) Any customer who has chosen retail access from a non-affiliated generation company  
13 but who otherwise requires electric service due to said generation company's failure to provide  
14 contracted service shall be eligible for service through the distribution company's default service  
15 provided pursuant to the provisions of subsection (d).

16 (c) No electric company regulated by the department and no affiliate of such electric  
17 company shall be allowed to use the distribution system of another electric company or make  
18 sales, either directly or indirectly through third parties, to end-use customers in another electric  
19 company's service territory unless the department has approved a restructuring plan for the  
20 supplying electric company which provides for comparable direct access to end-use customers  
21 within its own distribution service territory or the supplying electric company has entered into an  
22 agreement for direct access to an end-use customer located on the border of its service territory,  
23 in which event the department shall authorize service by an electric company to such end-use  
24 customer. No electric company and no affiliate of such electric company shall be allowed to  
25 prohibit sales of electricity or restrict such sales through non-comparable distribution charges to  
26 end-use customers in its service territory by another electric company or its affiliate operating  
27 under a restructuring plan approved by the department.

28 (d) Each distribution company shall provide its customers with default service and shall  
29 offer a default service rate to its customers who have chosen retail electricity service from a non-  
30 utility affiliated generation company or supplier but who require electric service because of a  
31 failure of such company or the supplier to provide contracted service or who, for any reason,

32 have stopped receiving such service, and to all other customers. The distribution company shall  
33 procure such service through competitive bidding; provided, however, that the default service  
34 rate so procured shall not exceed the average monthly market price of electricity; and provided,  
35 further, that all bids shall include payment options with rates that remain uniform for periods of  
36 up to six months. Any department-approved provider of service, including an affiliate of a  
37 distribution company, shall be eligible to participate in the competitive bidding process. The  
38 department may authorize an alternate generation company or supplier to provide default service,  
39 as described herein, if such alternate service is in the public interest. In implementing the  
40 provisions of this section, the department shall ensure universal service for all ratepayers and  
41 sufficient funding to meet the need therefor.

42 (e) Not less frequently than once every 15 years, the department shall administer a  
43 competitive process under which distribution companies may competitively bid to provide  
44 service in territories, or portions of territories, other than the territories served by the distribution  
45 company on January 1, 2015, except for the territories served by municipal light plants.  
46 Proposals by distribution companies to provide service in new territories, or new portions of  
47 territories, shall maintain municipal boundaries. The department shall require bids to consist of  
48 aggregate value proposals, including but not limited to consideration of the potential  
49 improvements in reliability, emergency response and energy efficiency, and the cost-effective  
50 improvement of distribution infrastructure. A successful proposal shall offer the greatest value to  
51 customers in that service territory at the lowest cost. The department shall not be obligated to  
52 accept any proposal under this subsection. The department shall ensure, at the conclusion of any  
53 process initiated under this subsection, that a service provider as described in subsection (d) is  
54 available for all retail customers in Massachusetts.

55 (f) The department is hereby authorized and directed to promulgate rules and regulations  
56 necessary to carry out the provisions of this section, including the procedure for default service  
57 procurement, governing a customer's ability to return to the standard service after choosing retail  
58 access from a non-utility affiliated generation company and governing the competitive process  
59 required in subsection (e).

60 SECTION 2. The department of public utilities shall administer the first competitive  
61 process as provided in subsection (e) of section 1B of chapter 164 not later than June 30, 2018  
62 for the calendar year starting on January 1, 2019.

63 SECTION 3. The department of public utilities shall promulgate the rules and regulations  
64 described in subsection (f) of section 1B of chapter 164 of the General Laws at least one year  
65 before the start of the first competitive process described in subsection (e) of section 1B of  
66 chapter 164 of said General Laws.