

MASSACHUSETTS ALLIANCE FOR FAIR UTILITY COMPETITION

POSITION PAPER IN SUPPORT OF H.3513

An Act to Promote Reliable and High Quality Utility Service in the Commonwealth

H.3513 was filed by the Massachusetts Alliance for Fair Utility Competition – a coalition of contractors and professional associations that includes both union and nonunion companies in the HVAC, plumbing and electrical trades. It has the support of the major mechanical and electrical unions as well.

The purpose of the bill is simple: to put teeth into the existing law regulating gas and electric utilities and stop the utilities from “cross-subsidizing” their affiliated service companies in ways that give the utility affiliates a competitive advantage over independent small businesses.

The current law, c. 1C of c.164, already places restrictions on the utilities but it has not been effective in preventing cross-subsidization – in part because there is little enforcement, and no effective means of bringing a complaint. As a result, some utilities have for years been paying for free boilers and other equipment deals offered by their affiliates, that independent small businesses can’t possibly match. They have also been using the utility name and logo to get business for the affiliates, and using utility trucks and equipment to help their affiliates win construction contracts at below-market pricing.

H.3513 is designed to stop cross-subsidization not by changing the law but by adding a few reasonable provisions to clarify the law and strengthen the penalties for violations:

- 1) It strictly prohibits the regulated utilities – gas as well as electric – from providing subsidies of any kind to their unregulated affiliates.
- 2) It requires complete corporate separation of the utilities and their affiliates to prevent cross-subsidization.
- 3) It allows private citizens to bring a complaint, and requires the DTE to make timely decisions.
- 4) It gives the Attorney General the authority to prosecute violations.
- 5) It makes violations of the law a violation of the consumer protection statute, c.93A.

In the spirit of compromise, H.3513 also includes a provision that grants a renewable, two year exemption from the regulations for utilities that are able to show that an exemption is in the best interest of the ratepayers. This provision was added in response to concerns raised by the utility workers’ union.

In sum, H.3513 is all about fair competition and ensuring that utility affiliates and independent small contractors will compete for business on a level playing field, as the law intended. Small businesses are not afraid of competition. They just want it to be fair.

S. 2449 has been in the Senate Ways & Means Committee for many months. We ask that you do what you can to see that it is acted upon favorably as quickly as possible.