



July 1, 2010

Chairman Charles Murphy
House Ways & Means Committee
Room 243
State House
Boston, Massachusetts 02133

Re: Bill H. 4792 - Establishment of Municipal Lighting Authorities

Dear Chairman Murphy,

On behalf of the cities and towns of the Commonwealth, the Massachusetts Municipal Association (MMA) would like to thank you for co-sponsoring H.3087 to establish Municipal Lighting Authorities.

We appreciate that the Joint Committee on Telecommunications, Utilities and Energy reported H. 3087 and S. 1527 out of committee favorably as H. 4792. We urge you to issue a favorable report to H. 4792 to ensure that all municipalities would have a new choice or option for the distribution of electricity, thereby creating for the first time in Massachusetts a form of competition in this costly segment of the utility industry.

According to a DOER report, electricity rates at municipal utilities (“munis”) are demonstrably and consistently lower than at investor-owned utilities (“IOUs”). In fact, in 2006 rates offered by munis were lower by 30% (DOER report, exhibit 11, p. 34). DOER correctly points out that some new munis might not be able to replicate such low rates. That is why H. 4792 would require a city or town that considers forming a municipal utility to present an in-depth economic feasibility study to the DPU to ensure viability.

It is worth noting that over 100 individual cities and towns from across the state have voted to support the legislation, and nearly 50 of your colleagues are co-sponsors.

The legislation would amend a century-old statute that has made it impossible for municipalities to acquire the assets of the existing utility and establish a municipal light authority. Currently, any investor-owned utility can choose not to sell its assets to a municipality at a price set by DPU. The current “remedy” is to allow a municipality to then establish its own distribution network. At the turn of the last century (1900) that may have been feasible. Today, however, establishing a second network infrastructure is uneconomical and virtually impossible. Municipal officials cannot realistically propose doubling the number of poles and wires in a community when that infrastructure already exists. As a result, it is not practical for any community to even conduct a feasibility study to establish a municipal lighting authority without legislative relief.

This is why no city or town in Massachusetts has formed a new muni since 1926. Updating this statute is good for all consumers, including municipalities, residents and businesses.

The MMA strongly endorses this legislation because it would provide a reasonable option to allow communities to lower their own municipal energy costs (saving taxpayer dollars), and reduce the energy costs borne by their residents, businesses and industry during very tough economic times. Under the legislation, once the DPU determines the value of the existing utility's assets in a community, the utility would be required to sell to the city or town if the community so requests. After the value has been set, communities would conduct a detailed feasibility analysis, and decide whether to form a municipal facility based on their findings and on the benefit to residents and consumers. In addition to the benefits to municipalities and residents, the prospect of competition may result in IOUs working harder to reduce their rates. Any tool the Legislature can provide to cities and towns to help reduce costs and provide savings to their residents is certainly in the public interest.

We strongly urge you to support passage of this important bill. H. 4792 improves H. 3087's original language by requiring new munis to comply with the Green Communities Act, and to bear their fair share of certain IOU legacy costs (e.g. long-term supply, retirees). However, the language could still be improved in 3 key areas:

- (1) H. 4792 sets the value of the IOU's assets as "50 percent of the net book value, plus 50 percent of the reproduction cost new less depreciation" while H. 3087 sets it as "original cost of the property less accumulated depreciation." This language change would mean the municipalities would be forced to pay up to two times the amount set by H. 3087 for the asset. The language in H. 3087 is best.
- (2) H. 4792 omits critical language that requires the DPU to issue a report on a proposed "muni" in a reasonable and certain timeframe. In H. 3087, if the DPU does not meet this timeframe the municipal proposal would be deemed favorable and could proceed forward. Similarly, H. 4792 also omits any penalties on an IOU for withholding a deed for its assets indefinitely, if a favorable report is issued, thus negating the intent of this legislation, and forcing a municipality to initiate costly litigation to acquire these assets. The language in H. 3087 is best.
- (3) Instead of requiring DPU to approve a least-cost separation plan as H. 3087 did, H. 4792 requires the municipality to pay for reconfiguration and construction of new equipment, which fails to minimize the cost of separation from the IOU, as the public interest would require. The language in H. 3087 is best.

The MMA looks forward to working with you and your colleagues to address these concerns on this important initiative, and we strongly urge you to issue a favorable report to H. 4792, with the above-referenced amendments. Thank you very much.

Sincerely,



Geoffrey C. Beckwith
Executive Director