

HOUSE No. 3700

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to authorize the town of Chelmsford to regulate the removal of above ground utility poles and overhead wires and other associated structures and to regulate the installation of underground wires and associated structures..

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. Notwithstanding any general or special law or by-law or regulation to the
2 contrary, the Town of Chelmsford is hereby authorized to take the following action regarding the
3 removal of aboveground utility poles and overhead wires and other associated structures and to
4 regulate the installation of underground wires and associated structures.

5 SECTION 2. The Town of Chelmsford may adopt a plan for the removal of aboveground
6 utility poles and overhead wires and the installation of underground wires and associated
7 structures and conduits (“the Plan”). After the Plan is adopted, it may be implemented in phases,
8 as may from time-to-time be determined by the Board of Selectmen. In determining if the Plan
9 shall be implemented in phases, the Board of Selectmen shall consider the following factors,
10 among other relevant factors: the total cost of completing the work under the Plan; the amount of
11 funds collected by the utility from its customers in the Town of Chelmsford in relation to the
12 total cost of completing the work under the Plan; and the progress the utility is making towards
13 completing the work under the Plan. Any phasing of implementing the Plan shall not constitute

14 an amendment of the Plan. In determining whether to undertake the removal shown on the Plan
15 in phases, the Board of Selectmen shall consult with the utility. The decision regarding phasing
16 shall be in the sole discretion of the Board of Selectmen.

17 SECTION 3. The utility may charge its customers in the Town of Chelmsford a
18 surcharge as provided for in General Laws, c.166, §22D, or successor statute, to pay for the work
19 provided for in the Plan (“the Surcharge”). Commencing with the calendar year beginning
20 January 1, 2009, the Surcharge collected by the utility from its customers in the Town of
21 Chelmsford in accordance with a Plan shall be placed by the utility in a separate interest-bearing
22 account. The interest accrued on such funds shall remain with the account and shall be available
23 for and used by the utility in furtherance of completion of the Plan. All funds collected by the
24 utility from its customers in the Town of Chelmsford as a surcharge prior to January 1, 2009
25 pursuant to a Town By-law prohibiting the installation of new poles and overhead wires and
26 regulating the installation of underground wires shall be transferred as of January 1, 2009 to the
27 separate interest-bearing account required under this section.

28 SECTION 4. Commencing with the calendar year 2009, on or before March 31 of each
29 year, the utility shall prepare a detailed report to the Chelmsford Board of Selectmen regarding
30 the actions taken to implement the Plan. The report shall include, but not be limited to the
31 following information: the number of customers in the Town of Chelmsford from whom the
32 Surcharge has been collected during the immediately preceding calendar year; the amount of the
33 Surcharge collected from the customers in the Town of Chelmsford; the name and address of the
34 financial institution or other entity where the interest-bearing account is located; the amount of
35 interest accrued to the account during the immediately preceding calendar year for which the
36 report is being provided; the specific purpose and amount for each cost incurred or disbursement

37 made over \$100 regarding implementation of the Plan; the name, street mailing address and
38 electronic mail address, if available, of each vendor or other entity to whom a payment over \$100
39 was made regarding implementation of the Plan; and the amount of funds remaining in the
40 interest-bearing account as of December 31 of the preceding calendar year.

41 SECTION 5. The Board of Selectmen may temporarily or permanently suspend the
42 collection of the Surcharge from the utility's customers in the Town of Chelmsford upon the
43 following: (a) The Board of Selectmen gives notice of and holds a public hearing regarding
44 consideration of such suspension; (b) The notice of the public hearing is published in a newspaper
45 of general circulation in the Town and posted on a Town bulletin board and on the Town's
46 website at least fourteen days before the date of the hearing; (c) The notice of public hearing is
47 sent by return receipt requested mail at least fourteen days before the date of the hearing to the
48 utility for which the suspension is being considered; (d) After hearing, the Board of Selectmen
49 finds: (i) the utility has collected sufficient funds through the Surcharge from the customers in
50 the Town of Chelmsford to carry out the Plan; or (ii) the utility has collected sufficient funds
51 from its customers in the Town of Chelmsford through the Surcharge to fund a phase of the Plan.

52 SECTION 6. This act shall take effect upon its passage.