

HOUSE No. 4408

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act authorizing the town of Chelmsford to regulate the removal of aboveground 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, 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, hereinafter referred to as the plan. After the plan is adopted, it may be
8 implemented in phases, as may from time-to-time be determined by the board of selectmen. In
9 determining if the plan shall be implemented in phases, the board of selectmen shall consider,
10 but not be limited to, the following factors: the total cost of completing the work under the plan;
11 the amount of funds collected by the utility from its customers in the town of Chelmsford in
12 relation to the total cost of completing the work under the plan; and the progress the utility is
13 making towards completing the work under the plan. Any phasing of implementing the plan

14 shall not constitute an amendment of the plan. In determining whether to undertake the removal
15 shown on the plan in phases, the board of selectmen shall consult with the utility. The decision
16 regarding phasing 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 surcharge
18 as provided for in section 22D of chapter 166 of the General Laws, or any successor statute, to
19 pay for the work provided for in the plan, hereinafter referred to as the surcharge. Commencing
20 with the calendar year beginning January 1, 2010, the surcharge collected by the utility from its
21 customers in the town of Chelmsford in accordance with a plan shall be placed by the utility in a
22 separate interest-bearing account. The interest accrued on such funds shall remain with the
23 account and shall be available for and used by the utility in furtherance of completion of the plan.
24 All funds collected by the utility from its customers in the town of Chelmsford as a surcharge
25 prior to January 1, 2010 pursuant to a town by-law prohibiting the installation of new poles and
26 overhead wires and regulating the installation of underground wires shall be transferred as of
27 January 1, 2010 to the separate interest-bearing account required under this section.

28 SECTION 4. Commencing with the calendar year 2010, 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 website
46 at least 14 days before the date of the hearing; (c) the notice of public hearing is sent by return
47 receipt requested mail at least 14 days before the date of the hearing to the utility for which the
48 suspension is being considered; and (d) after the public hearing, the board of selectmen finds
49 that: (i) the utility has collected sufficient funds through the surcharge from the customers in the
50 town of Chelmsford to carry out the plan; or (ii) the utility has collected sufficient funds from its
51 customers in the town of Chelmsford through the surcharge to fund a phase of the plan.