

SENATE No. 2356

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to the temporary relocation of utility wires.

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. Section 39 of Chapter 166 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out section 39 and inserting in place thereof the
3 following section:-

4 Whenever, in order to move a building or for any other necessary purpose, a person
5 desires that the pipes, mains, poles, wires, conduits or fixtures of a public utility be cut,
6 disconnected, or removed, the person which desires the cutting, disconnection, or removal of
7 pipes, mains, poles, wires, conduits or fixtures of a public utility shall give written notification
8 thereof to the department of public utilities and the utility company no later than thirty days prior
9 to the proposal date of the move. The written notification must contain the location of the site
10 where the structure is presently located, the location of the final destination of the structure, the
11 path of the proposed move, described in reference to the crossings of streets or highways, and the
12 date of the required cutting, disconnection or removal.

13 The public utility shall not be responsible for any more than \$5,000 in costs associated
14 with the cutting, disconnecting, or removing of the pipes, mains, poles, wires, conduits, or

15 fixtures, unless the department of public utilities, after notice and a public hearing considers the
16 following factors and so orders. The factors to be considered are:

17 Whether the building to be moved is to be used as affordable housing for low and
18 moderate income persons;

19 The replacement value of the building once moved and rehabilitated;

20 The historic value of the building;

21 The fiscal cost of the building, move and rehabilitation;

22 The public expense involved in the move, including utility costs, state and city labor costs
23 including police and any other public funds or expense required to move and rehabilitate the
24 building;

25 The potential damage to roads, trees or buildings; and

26 The disruption of utility service and street use and the expense to others who are
27 inconvenienced by the loss of utility services and/or use of roads or buildings.

28 If the person which desires the cutting, disconnection, or removal of pipes, mains, poles,
29 wires, conduits, or fixtures requests a public hearing, it shall be held no later than 21 days prior
30 to the proposed move. Notice of the proposal and the hearing shall be placed primarily in at least
31 10 locations in each mile on the proposed route and shall be mailed to the chief executive officer
32 of every city or town on the route, and each city or town council person whose district includes
33 any portion of the route. In addition, the department of public utilities shall provide such other
34 notice as required by law and that is usually given for public hearings of the department of public
35 utilities. The cost of the notices required by this section shall be paid by the applicant.

36 If after hearing, and considering each of the factors above, the department of public
37 utilities finds that the public benefit, including the factors set out in subsections (1), (2), and (3)
38 above substantially outweighs the fiscal cost, public expense, potential damage and disruption set
39 out in subsections (4), (5), (6) and (7) above. The department of public utilities may order that all
40 or part of the utility costs shall be at the utilities' expense and issue such further orders as may be
41 necessary to facilitate the move. In no event shall the department of public utilities approve any
42 more where the combined cost to the affected utilities exceeds \$25,000.