

SENATE No. 2662

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of the Senate amendment (Bills in the Third Reading) to the House Bill 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 House, No. 4408.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 1. Notwithstanding any general or special law, rule or regulation to the contrary, a
2 utility in the town of Chelmsford, which is required to remove poles, overhead wires or
3 associated overhead structures that the utility owns or operates in the town of Chelmsford, under
4 section 119-3 of chapter 119 of the by-laws adopted at the Chelmsford Annual Town Meetings
5 held on April 26, 1999 and October 20, 2008 shall file a plan, hereinafter referred to as the
6 “Plan”, for said removal and for any related installation of underground wires and associated
7 structures. The board of selectmen may extend the time of any required filing by a utility under
8 this section and may review and approve any modification of the Plan filed by a utility at any
9 time.

10 A utility required to file a Plan with the board of selectmen of the town of Chelmsford
11 shall file its plan within 90 days after the effective date of this act, which plan shall be subject to
12 review and approval by the board of selectmen. After approval of the Plan, the board of

13 selectmen may implement the Plan in phases, as may be determined from time-to-time by the
14 board of selectmen; provided, however, that phasing the implementation of the Plan shall not
15 constitute an amendment of the Plan. In determining if the Plan shall be implemented in phases,
16 the board of selectmen shall consider the following factors, among other relevant factors: the
17 total cost of completing the work under the Plan; the amount of funds collected by the utility
18 from its customers in the town of Chelmsford in relation to the total cost of completing the work
19 under the Plan; and the progress the utility is making towards completing the work under the
20 Plan. The board of selectmen shall consult with the utility; but shall have the sole discretion to
21 determine whether to implement the Plan in phases.

22 The utility may charge its customers in the town of Chelmsford a surcharge, hereinafter
23 referred to as the “Surcharge”, as provided for in section 22M of chapter 166 of the General
24 Laws, or successor statute, to pay for the work provided for in the Plan. For calendar years
25 beginning on or after January 1, 2011, the utility shall calculate interest on the difference
26 between the funds charged to customers in the town of Chelmsford through the Surcharge and
27 the payments of the utility under the Plan at a rate equivalent to the rate paid on 2-year United
28 States Treasury notes for the preceding calendar year or a higher interest rate as may be agreed
29 upon by the town of Chelmsford and the utility. The interest shall be compounded annually on
30 December 31. The interest accrued by the utility shall be applied to the financing of the Plan.

31 On or before March 31 of each year, the utility shall prepare a detailed report to the
32 Chelmsford board of selectmen regarding the actions taken to implement the Plan. The report
33 shall include, but not be limited to, the following information: the number of customers in the
34 town of Chelmsford from whom the Surcharge was billed, including those electric distribution
35 customers billed by competitive suppliers for the preceding calendar year; the amount of the

36 Surcharge billed to the customers in the town of Chelmsford; the accrued interest earned as
37 defined in the preceding paragraph; and the balance of funds in excess of or less than payments
38 associated with the Plan as of December 31 of the preceding 12 months. The report shall also
39 contain aggregated information on expenses for the following items: engineering and design,
40 materials and construction, land acquisitions, taxes and public safety.

41 The board of selectmen may temporarily or permanently suspend the collection of the
42 Surcharge from the utility's customers in the town of Chelmsford if: (a) the board of selectmen
43 gives notice of and holds a public hearing regarding consideration of such suspension; (b) the
44 notice of the public hearing is published in a newspaper of general circulation in the town and
45 posted on a town bulletin board and on the town's website at least 14 days before the date of the
46 hearing; (c) the notice of public hearing is sent by certified mail, return receipt requested, at least
47 14 days before the date of the hearing to the utility for which the suspension is being considered;
48 and (d) after said hearing, the board of selectmen finds: (i) the utility has collected sufficient
49 funds through the Surcharge from the customers in the town of Chelmsford to carry out the Plan
50 or (ii) the utility has collected sufficient funds from its customers in the town of Chelmsford
51 through the Surcharge to fund a phase of the Plan.

52 SECTION 2. This act shall take effect upon its passage.