HOUSE . . . . . No. 4518

Substituted by the House, on motion of Mr. Donato of Medford, for a bill with the same title (House, No. 4101). July 14, 2016.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act authorizing the Division of Capital Asset Management and Maintenance to grant certain easements in the city of Medford and in the town of Winchester.

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

SECTION 1. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may convey a permanent subsurface easement over, under and through certain portions of land on the westerly and easterly side of the Aberjona River adjacent to Bacon street associated with an existing NSTAR Electric underground transmission line, and a permanent subsurface easement on land to be associated with a new underground transmission line located on the Upper Mystic Lake Reservation, and on the westerly side of the MBTA Wedgemere T-Station and the upper Mystic Valley Parkway at the intersection of Bacon Street and located in the town of Winchester, all of which is land currently under the control of and used by the department of conservation and recreation, to NSTAR Electric Company, which for the purposes of this act shall include its successors and assigns, solely for the purposes of laying, constructing, maintaining, accessing, operating, replacing, repairing, abandoning and removing underground

electric transmission lines and appurtenant facilities for the transmission of electricity, subject to the provisions of sections 4 and 5 and to such reasonable additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may prescribe.

Said portions of land, over, under and through which said easements shall be granted, are more particularly described as land subject to an order of taking dated April 18, 1895 and recorded in the Middlesex South registry of deeds in book 2375, page 546, currently under the control of and used by the department of conservation and recreation. The existing underground electric transmission line and the associated permanent 20 foot wide easement to be granted is situated on land between the Bacon street (Route 38) municipal right-of-way boundary and traversing westerly under the Aberjona River to the easterly parcel boundary of the Massachusetts Bay Transportation Authority's Wedgemere T-Station and Lowell Line right-of-way for approximately 465 linear feet, more or less, and traversing westerly from the westerly parcel boundary of land controlled by the town of Winchester and adjacent to the Massachusetts Bay Transportation Authority's Wedgemere T-Station and Lowell Line right-of-way for approximately 65 linear feet to the parcel boundary at the Mystic Valley Parkway, and said permanent 20 foot wide easement to be granted shall apply to the aggregate of existing pipe-type cable and surrounding conduit, more or less. The new underground electric transmission line and associated permanent 20 foot wide easement to be granted shall be situated on land between the Fenwick road municipal right-of-way boundary and traversing westerly under the Aberjona River to the easterly parcel boundary of the Lowell Line right-of-way and Massachusetts Bay Transportation Authority's Wedgemere T-Station for approximately 550 linear feet by 20 feet wide, more or less, and traversing westerly from the westerly parcel boundary of the Lowell Line

37 right-of-way and Massachusetts Bay Transportation Authority's Wedgemere T-Station
38 approximately 77 linear feet by 20 feet wide, more or less, to the parcel boundary at the Mystic
39 Valley Parkway, and said permanent 20 foot wide easement to be granted shall apply to the
40 aggregate of existing pipe-type cable and surrounding conduit, more or less. Said easements are
41 shown as Figure 1 on a plan entitled "Mystic-Woburn Transmission Project – Article 97,
42 Existing Line 211-514 and New Line 211-514Y Aberjona River & MBTA Crossings" prepared
43 by POWER Engineers Consulting, and dated December 4, 2015, which is on file with the
44 department of conservation and recreation.

45 Modifications to the easement descriptions set forth in the above referenced plan may be
46 made in order to conform to the requirements of a decision made by the department of public
47 utilities and with a final land survey, as accepted by the departments, prior to any conveyance to
48 carry out this act. The final survey shall be recorded in the Middlesex South registry of deeds.

49 SECTION 2. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
50 Laws or any other general or special law to the contrary, the commissioner of capital asset
51 management and maintenance, in consultation with the commissioner of conservation and
52 recreation, may convey a permanent subsurface easement associated with the NSTAR Electric
53 Company existing transmission line and a permanent subsurface easement associated with a new
54 transmission line, on land currently under the control of and used by the department of
55 conservation and recreation, to NSTAR Electric Company. Such easements, described in more
56 detail below, shall run over, under and through portions of land on the northerly and southerly
57 side of the Mystic river known as Mystic Valley Reservation, within MacDonald Park between
58 the Mystic Valley Parkway (Route. 16) and Winthrop street and South street located in the city
59 of Medford.

Said portions of land, over, under and through which said easements shall be granted, are more particularly described as land subject to an order of taking dated November 26, 1899 and recorded in the Middlesex South registry of deeds in Book 2787, Page 537 and under the control of and used by the department of conservation and recreation. The existing underground electric transmission line and the associated permanent 20 foot wide easement to be granted is situated on land between the Winthrop street (Route 38) municipal right-of-way boundary and traversing southerly under the Mystic river to the South street municipal right-of-way boundary for approximately 370 linear feet, more or less, and said permanent 20 foot wide easement to be granted shall apply to the aggregate of existing pipe-type cable and surrounding conduit, more or less. The new underground electric transmission line and the associated permanent 20-foot wide easement shall be situated on the same land between the Winthrop street (Rte. 38) municipal right-of-way boundary and traversing southerly under the Mystic River to the South street municipal right-of-way boundary for approximately 470 linear feet by 20 feet wide, more or less, and said permanent 20 foot wide easement to be granted shall apply to approximately 0.22 acres of land in the aggregate, more or less. Said easements are shown as Figure 2 on a plan entitled "Mystic-Woburn Project - Article 97 Filing, Existing Line 211-514 and New Line 211-514Y Mystic River Crossing" prepared by POWER Engineers Consulting, and dated October 30, 2015, which is on file with the department of conservation and recreation.

Modifications to the easement descriptions set forth in the above referenced plan may be made in order to conform to the requirements of a decision by the department of public utilities and with a final land survey, as accepted by the departments, prior to any conveyance to carry out this act. The final survey shall be recorded in the Middlesex South registry of deeds.

82 SECTION 3. The fair market value of the easements described in section 1 and 2 and the
83 land described in section 6, or the value in use as proposed, shall be based on independent
84 professional appraisals, as commissioned by the commissioner of capital asset management and
85 maintenance. NSTAR Electric Company shall compensate the commonwealth in an amount
86 greater than or equal to the full and fair market value, or the value in use of the easements as
87 proposed, whichever is greater, as determined by the independent appraisals. NSTAR Electric
88 Company shall assume all costs associated with any engineering, surveys, appraisals, deed
89 preparation and other expenses deemed necessary by the commissioner of capital asset
90 management and maintenance to execute the conveyances authorized by this act. All money paid
91 to the commonwealth by NSTAR Electric Company as a result of the conveyances authorized by
92 this section shall be deposited in the General Fund. The commissioner of capital asset
93 management and maintenance shall submit the appraisals and a report thereon to the inspector
94 general for review and comment. The inspector general shall review and approve the appraisals
95 and the review shall include an examination of the methodology utilized for the appraisals. The
96 inspector general shall prepare a report of the review and file the report with the commissioner of
97 capital asset management and maintenance, and the commissioner shall submit said report to the
98 house and senate committees on ways and means and the house and senate chairs of the joint
99 committee on state administration and regulatory oversight. The commissioner shall submit
100 copies of the appraisals, the report thereon and the inspector general's review and approval, and
101 comments, if any, to the house and senate committees on ways and means and the house and
102 senate chairs of the joint committee on state administration and regulatory oversight prior to the
103 execution of the conveyances authorized by this act.

104 SECTION 4. Notwithstanding any general or special law to the contrary, on or after the
105 effective date of this act, the department of conservation and recreation may grant a temporary
106 license, not to exceed 5 years, at a nominal amount to NSTAR Electric Company, in order to
107 provide NSTAR Electric Company with immediate and complete access to, control of, and
108 liability and responsibility for the easements described in section 1 and 2, for the purposes of this
109 act until the conveyances authorized by this act are made.

110 SECTION 5. No instrument conveying by or on behalf of the commonwealth any
111 easement described in section 1 and 2 shall be valid unless such instrument provides that the
112 easements shall be used solely for the purposes described in this act. The instrument conveying
113 any such easement shall include a provision which shall state that in the event that the easements
114 cease to be used by NSTAR Electric Company for the purposes described in this act, the
115 easements shall revert to the commonwealth under the control of and use by the department of
116 conservation and recreation, upon such terms and conditions as the commissioner of capital asset
117 management and maintenance may determine. If the easements revert to the commonwealth, any
118 further disposition of the easements shall be subject to sections 32 to 38, inclusive, of chapter 7C
119 of the General Laws and the prior approval of the general court. The terms of the easements shall
120 require that for any installation, maintenance, repair or other work performed in the easement
121 area, the easement holder shall not limit surface access to parkland or roadways for a period of
122 time longer than that deemed acceptable by the department of conservation and recreation and
123 shall restore the surface condition to the equivalent or better condition as determined by the
124 department.

125 SECTION 6. To ensure a no-net-loss of lands protected for natural resource purposes and
126 as a condition of the conveyance authorized in section 1, NSTAR Electric Company shall, in

127 addition to any compensation from NSTAR Electric Company to the commonwealth required
128 pursuant to section 3, compensate the commonwealth for the easements described in this act
129 through the transfer to the department of conservation and recreation of land or an interest
130 therein, or funding for the acquisition of land or an interest therein, equal to or greater than the
131 appraised value of said easements as determined pursuant to this act. The fair market value of
132 any land or interest in land proposed to be conveyed by NSTAR Electric Company to the
133 department shall be included within the appraisal required by section 3. The department of
134 conservation and recreation shall accept the land or interest therein, or funding, and any land or
135 interest therein, whether conveyed by NSTAR Electric Company or acquired by the department,
136 shall be permanently held and managed for conservation and recreation purposes by the
137 department. If the appraised value of any land or interests therein conveyed pursuant to this
138 section shall be determined to be greater than the appraised value of the easements described in
139 section 1 and 2, the commonwealth shall have no obligation to pay the difference. All payments
140 paid to the commonwealth as a result of this section shall be deposited in the Conservation Trust
141 established in section 1 of chapter 132A of the General Laws.