

**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:*

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

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

18 Said portions of land, over, under and through which said easements shall be granted, are  
19 more particularly described as land subject to an order of taking dated April 18, 1895 and  
20 recorded in the Middlesex South registry of deeds in book 2375, page 546, currently under the  
21 control of and used by the department of conservation and recreation. The existing underground  
22 electric transmission line and the associated permanent 20 foot wide easement to be granted is  
23 situated on land between the Bacon street (Route 38) municipal right-of-way boundary and  
24 traversing westerly under the Aberjona River to the easterly parcel boundary of the  
25 Massachusetts Bay Transportation Authority's Wedgemere T-Station and Lowell Line right-of-  
26 way for approximately 465 linear feet, more or less, and traversing westerly from the westerly  
27 parcel boundary of land controlled by the town of Winchester and adjacent to the Massachusetts  
28 Bay Transportation Authority's Wedgemere T-Station and Lowell Line right-of-way for  
29 approximately 65 linear feet to the parcel boundary at the Mystic Valley Parkway, and said  
30 permanent 20 foot wide easement to be granted shall apply to the aggregate of existing pipe-type  
31 cable and surrounding conduit, more or less. The new underground electric transmission line and  
32 associated permanent 20 foot wide easement to be granted shall be situated on land between the  
33 Fenwick road municipal right-of-way boundary and traversing westerly under the Aberjona  
34 River to the easterly parcel boundary of the Lowell Line right-of-way and Massachusetts Bay  
35 Transportation Authority's Wedgemere T-Station for approximately 550 linear feet by 20 feet  
36 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.

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

78 Modifications to the easement descriptions set forth in the above referenced plan may be  
79 made in order to conform to the requirements of a decision by the department of public utilities  
80 and with a final land survey, as accepted by the departments, prior to any conveyance to carry  
81 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.