

SENATE No. 2369

The Commonwealth of Massachusetts

PRESENTED BY:

Walter F. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to an easement plan for the Milton Inline Inspection Project.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|--------------------------|--------------------------------------|------------------|
| <i>Walter F. Timilty</i> | <i>Norfolk, Bristol and Plymouth</i> | |
| <i>William Driscoll</i> | <i>7th Norfolk</i> | <i>12/5/2017</i> |
| <i>Bruce J. Ayers</i> | <i>1st Norfolk</i> | <i>3/22/2018</i> |
| <i>Mark J. Cusack</i> | <i>5th Norfolk</i> | <i>3/22/2018</i> |
| <i>Daniel Cullinane</i> | <i>12th Suffolk</i> | <i>3/22/2018</i> |
| <i>Paul R. Feeney</i> | <i>Bristol and Norfolk</i> | <i>3/22/2018</i> |
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | <i>3/22/2018</i> |
| <i>Louis L. Kafka</i> | <i>8th Norfolk</i> | <i>3/22/2018</i> |
| <i>John H. Rogers</i> | <i>12th Norfolk</i> | <i>3/22/2018</i> |
| <i>Michael F. Rush</i> | <i>Norfolk and Suffolk</i> | <i>3/22/2018</i> |

SENATE No. 2369

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to an easement plan for the Milton Inline Inspection Project.

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. (a) Notwithstanding sections 34 and 38 of chapter 7C of the General Laws
2 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 grant to Boston Gas Company a perpetual, permanent surface and sub-surface
5 easement and right-of-way for the purposes set forth below, as shown on the attached plan
6 entitled “Proposed Right of Way, Milton Inline Inspection Project, Milton, MA” (the “Easement
7 Plan”), to be located on portions of a parcel of land under the care and control of the department
8 of conservation and recreation and held for conservation and recreation purposes in the town of
9 Milton known as the Blue Hills Reservation and identified as Milton Tax Parcel ID M-10-DCR,
10 comprised of three easement areas identified as “Easement A” for surface and subsurface
11 facilities, “Easement B” for subsurface facilities and “Easement C” for surface and subsurface
12 facilities that will be enclosed by a security fence, all as shown on the Easement Plan
13 (collectively, the “Easement Area”). The easement shall be exclusive, except for that certain
14 Permit dated June 8, 1967 granted to Algonquin Gas Transmission Company, now known as

15 Algonquin Gas Transmission, LLC, with respect to Easement C and non-exclusive with respect
16 to Easement A and Easement B. Easement A is a right of way corridor being approximately 20
17 feet in width with the gas main being the centerline and is comprised of approximately 815
18 square feet in the aggregate as more particularly delineated on the Easement Plan. Easement B is
19 a right of way corridor being approximately 20 feet in width with the gas main being the
20 centerline and is comprised of approximately 2,220 square feet in the aggregate as more
21 particularly delineated on the Easement Plan. Easement C is an approximately 31 feet by 78 feet
22 area, comprised of approximately 2,418 square feet in the aggregate, enclosed by a security fence
23 located 5 feet from the easement boundaries as more particularly delineated on the Easement
24 Plan. The easement shall grant the right to install, construct, reconstruct, repair, replace,
25 relocate, add to, operate and maintain underground and/or aboveground gas systems, including
26 but not limited to gas mains, gas service lines and pipes, and pigging launching and/or receiving
27 stations, together with all necessary appurtenances and accessories thereto (the “Gas Facilities”),
28 as Boston Gas may now and from time-to-time deem necessary, together with the perpetual right
29 and easement to pass and repass on foot and with vehicles and equipment within and along the
30 Easement Area and to access the Easement Area as reasonably required over the adjoining lands
31 of the grantor to and from the “Dirt Access Road” located on the abutting property owned by
32 Boston Gas and identified as Town of Milton Assessor Map I, Block 38, Lot 5, as shown the
33 Easement Plan; the perpetual right and easement to clear and keep cleared the Easement Area of
34 land of trees, underbrush and above and below ground buildings or structures; the perpetual right
35 and easement at any time and at all times to renew, replace, remove, add to, modify and
36 otherwise change the Gas Facilities and the locations thereof within the Easement Area; and the
37 perpetual right and easement to change the grade of the Easement Area but only as is reasonable,

38 necessary and proper in connection with the exercise of the foregoing rights and easements,
39 subject to the provisions of sections 3 and 4 below.

40 (b) The exact boundaries of the easement are as shown on the Easement Plan, which shall
41 be recorded with the Norfolk County Registry of Deeds. The easement shall be subject to such
42 additional terms and conditions as the commissioner of capital asset management and
43 maintenance, in consultation with the commissioner of conservation and recreation, may
44 prescribe, to ensure that environmental impacts associated with the use of the parcels are
45 addressed and that the conveyance results in a net benefit to the park system. The easement shall
46 contain a restriction that the easement shall only be used for the purpose of installing,
47 constructing, reconstructing, repairing, replacing, adding to, operating, and maintaining the Gas
48 Facilities described above.

49 SECTION 2. The consideration for the easement shall be the full and fair market value or
50 the value in use, whichever is greater, of the easement as determined by the commissioner of
51 capital asset management and maintenance pursuant to an independent professional appraisal
52 contracted by the division. An appraisal for the full and fair market value and the value in use of
53 the easements shall be prepared in accordance with usual and customary professional appraisal
54 practices by a qualified appraiser commissioned by the commissioner of capital asset
55 management and maintenance. The inspector general shall review and approve the appraisals.
56 The inspector general shall prepare a report of his review of the methodology utilized for the
57 appraisal and shall file the report with the commissioner of capital asset management and
58 maintenance, the house and senate committees on ways and means and the joint committee on
59 state administration and regulatory oversight. The commissioner of capital asset management
60 and maintenance shall, 30 days before the grant of an easement authorized by this act, or a

61 subsequent amendment thereto, submit the proposed easement and a report thereon to the
62 inspector general for his review and comment. The inspector general shall issue his review and
63 comment within 15 days after receipt of the proposed easement. The commissioner shall submit
64 the proposed easement, and the reports and the comments of the inspector general, if any, to the
65 house and senate committees on ways and means and the joint committee on state administration
66 and regulatory oversight at least 15 days before the execution of the easement.

67 SECTION 3. To ensure a no-net-loss of lands protected for conservation purposes, and to
68 mitigate impacts upon parkland, in addition to the consideration due under section 2, the grant of
69 easements shall only occur if the grantee has mitigated the impact of its activities to the
70 satisfaction of the commissioner of conservation and recreation and commissioner of the division
71 of capital asset management and maintenance. Mitigation shall include payment of a sum equal
72 to such appraised fair market value or value in use or the sum of \$10,000, whichever is greater,
73 for the funding of the acquisition of land or an interest therein to be under the care and control of
74 the department for conservation and recreation purposes. Said funding shall be acceptable to the
75 department of conservation and recreation and shall be deposited in the Conservation Trust
76 established in section 1 of chapter 132A of the General Laws. Any land or interest therein
77 acquired by the department with such funding shall be permanently held and managed for
78 conservation and recreation purposes by the department.

79 SECTION 4. Notwithstanding any general or special law to the contrary, Boston Gas
80 Company shall be responsible for all costs and expenses including, but not limited to, actual
81 costs incurred in connection with any engineering, surveys, appraisals and easement preparation
82 related to the easement authorized in this act.