

HOUSE No. 3700

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas A. Golden, Jr.

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 passage of the accompanying bill:

An Act to authorize the town of Chelmsford to regulate the removal of above ground utility poles and overhead wires and other associated structures and to regulate the installation of underground wires and associated structures. .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas A. Golden, Jr.	16th Middlesex
Susan C. Fargo	Third Middlesex
David M. Nangle	17th Middlesex
James Arciero	2nd Middlesex
Cory Atkins	14th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO AUTHORIZE THE TOWN OF CHELMSFORD TO REGULATE THE REMOVAL OF ABOVE GROUND UTILITY POLES AND OVERHEAD WIRES AND OTHER ASSOCIATED STRUCTURES AND TO REGULATE THE INSTALLATION OF UNDERGROUND WIRES AND ASSOCIATED STRUCTURES. .

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 any general or special law or by-law or regulation to the
2 contrary, the Town of Chelmsford is hereby authorized to take the following action regarding the
3 removal of aboveground utility poles and overhead wires and other associated structures and to
4 regulate the installation of underground wires and associated structures.

5 **SECTION 2.** The Town of Chelmsford may adopt a plan for the removal of aboveground utility
6 poles and overhead wires and the installation of underground wires and associated structures and
7 conduits (“the Plan”). After the Plan is adopted, it may be implemented in phases, as may from
8 time-to-time be determined by the Board of Selectmen. In determining if the Plan shall be
9 implemented in phases, the Board of Selectmen shall consider the following factors, among other
10 relevant factors: the total cost of completing the work under the Plan; the amount of funds
11 collected by the utility from its customers in the Town of Chelmsford in relation to the total cost
12 of completing the work under the Plan; and the progress the utility is making towards completing

13 the work under the Plan. Any phasing of implementing the Plan shall not constitute an
14 amendment of the Plan. In determining whether to undertake the removal shown on the Plan in
15 phases, the Board of Selectmen shall consult with the utility. The decision regarding phasing
16 shall be in the sole discretion of the Board of Selectmen.

17 **SECTION 3.** The utility may charge its customers in the Town of Chelmsford a surcharge as
18 provided for in General Laws, c.166, §22D, or successor statute, to pay for the work provided for
19 in the Plan (“the Surcharge”). Commencing with the calendar year beginning January 1, 2009,
20 the Surcharge collected by the utility from its customers in the Town of Chelmsford in
21 accordance with a Plan shall be placed by the utility in a separate interest-bearing account. The
22 interest accrued on such funds shall remain with the account and shall be available for and used
23 by the utility in furtherance of completion of the Plan. All funds collected by the utility from its
24 customers in the Town of Chelmsford as a surcharge prior to January 1, 2009 pursuant to a Town
25 By-law prohibiting the installation of new poles and overhead wires and regulating the
26 installation of underground wires shall be transferred as of January 1, 2009 to the separate
27 interest-bearing account required under this section.

28 **SECTION 4.** Commencing with the calendar year 2009, on or before March 31 of each year, the
29 utility shall prepare a detailed report to the Chelmsford Board of Selectmen regarding the actions
30 taken to implement the Plan. The report shall include, but not be limited to the following
31 information: the number of customers in the Town of Chelmsford from whom the Surcharge has
32 been collected during the immediately preceding calendar year; the amount of the Surcharge
33 collected from the customers in the Town of Chelmsford; the name and address of the financial
34 institution or other entity where the interest-bearing account is located; the amount of interest

35 accrued to the account during the immediately preceding calendar year for which the report is
36 being provided; the specific purpose and amount for each cost incurred or disbursement made
37 over \$100 regarding implementation of the Plan; the name, street mailing address and electronic
38 mail address, if available, of each vendor or other entity to whom a payment over \$100 was
39 made regarding implementation of the Plan; and the amount of funds remaining in the interest-
40 bearing account as of December 31 of the preceding calendar year.

41 **SECTION 5.** The Board of Selectmen may temporarily or permanently suspend the collection
42 of the Surcharge from the utility's customers in the Town of Chelmsford upon the following: (a)
43 The Board of Selectmen gives notice of and holds a public hearing regarding consideration of
44 such suspension; (b)The notice of the public hearing is published in a newspaper of general
45 circulation in the Town and posted on a Town bulletin board and on the Town's website at least
46 fourteen days before the date of the hearing; (c) The notice of public hearing is sent by return
47 receipt requested mail at least fourteen days before the date of the hearing to the utility for which
48 the suspension is being considered; (d) After hearing, the Board of Selectmen finds: (i) the utility
49 has collected sufficient funds through the Surcharge from the customers in the Town of
50 Chelmsford to carry out the Plan; or (ii) the utility has collected sufficient funds from its
51 customers in the Town of Chelmsford through the Surcharge to fund a phase of the Plan.

52 **SECTION 6.** This act shall take effect upon its passage.