## **HOUSE**

# . No. 4408

### The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 3700, a Bill 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 (House, No. 4408). December 23, 2009.

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.

#### FOR THE COMMITTEE:

NAME:	District/Address:
Charles Murphy	21st 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:

- SECTION 1. Notwithstanding any general or special law, by-law or regulation to the contrary,
- 2 the town of Chelmsford is hereby authorized to take the following action regarding the removal
- 3 of aboveground utility poles and overhead wires and other associated structures and to regulate
- 4 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, hereinafter referred to as the plan. After the plan is adopted, it may be implemented in
- 8 phases, as may from time-to-time be determined by the board of selectmen. In determining if the
- 9 plan shall be implemented in phases, the board of selectmen shall consider, but not be limited to,
- the following 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
- of completing the work under the plan; and the progress the utility is making towards completing
- the work under the plan. Any phasing of implementing the plan shall not constitute an
- amendment of the plan. In determining whether to undertake the removal shown on the plan in
- phases, the board of selectmen shall consult with the utility. The decision regarding phasing shall
- be in the sole discretion of the board of selectmen.

**SECTION 3.** The utility may charge its customers in the town of Chelmsford a surcharge as provided for in section 22D of chapter 166 of the General Laws, or any successor statute, to pay for the work provided for in the plan, hereinafter referred to as the surcharge. Commencing with the calendar year beginning January 1, 2010, the surcharge collected by the utility from its customers in the town of Chelmsford in accordance with a plan shall be placed by the utility in a separate interest-bearing account. The interest accrued on such funds shall remain with the account and shall be available for and used by the utility in furtherance of completion of the plan. All funds collected by the utility from its customers in the town of Chelmsford as a surcharge prior to January 1, 2010 pursuant to a town by-law prohibiting the installation of new poles and overhead wires and regulating the installation of underground wires shall be transferred as of January 1, 2010 to the separate interest-bearing account required under this section. **SECTION 4.** Commencing with the calendar year 2010, on or before March 31 of each year, the 

**SECTION 4.** Commencing with the calendar year 2010, on or before March 31 of each year, the utility shall prepare a detailed report to the Chelmsford board of selectmen regarding the actions taken to implement the plan. The report shall include, but not be limited to the following information: the number of customers in the town of Chelmsford from whom the surcharge has been collected during the immediately preceding calendar year; the amount of the surcharge collected from the customers in the town of Chelmsford; the name and address of the financial institution or other entity where the interest-bearing account is located; the amount of interest accrued to the account during the immediately preceding calendar year for which the report is being provided; the specific purpose and amount for each cost incurred or disbursement made over \$100 regarding implementation of the plan; the name, street mailing address and electronic mail address, if available, of each vendor or other entity to whom a payment over \$100 was made regarding implementation of the plan; and the amount of funds remaining in the interest-bearing account as of December 31 of the preceding calendar year.

SECTION 5. The board of selectmen may temporarily or permanently suspend the collection of the surcharge from the utility's customers in the town of Chelmsford upon the following: (a) the board of selectmen gives notice of and holds a public hearing regarding consideration of such suspension; (b)the notice of the public hearing is published in a newspaper of general circulation in the town and posted on a town bulletin board and on the town's website at least 14 days before the date of the hearing; (c) the notice of public hearing is sent by return receipt requested mail at

- least 14 days before the date of the hearing to the utility for which the suspension is being
- considered; and (d) after the public hearing, the board of selectmen finds that: (i) the utility has
- 49 collected sufficient funds through the surcharge from the customers in the town of Chelmsford to
- 50 carry out the plan; or (ii) the utility has collected sufficient funds from its customers in the town
- of Chelmsford through the surcharge to fund a phase of the plan.