

SENATE, No. 2658

[December 13, 2010 - Text of the Senate amendment (Ways and Means) to the House Bill to authorize the town of Chelmsford to regulate the removal of above ground utility poles and overhead wires, House, No. 4408.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

1 **SECTION 1.** Notwithstanding any general law, special law, 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, overhead wires and other associated structures and to
4 regulate the installation of underground wires and associated structures.

5 A utility subject to the provisions of this act shall file with the board of selectmen of the
6 town of Chelmsford a plan for the required removal of aboveground poles, overhead wires and
7 associated overhead structures under the town's bylaws and for any related installation of
8 underground wires and associated structures. The utility shall file its plan within 90 days after the
9 passage of this act, which plan shall be subject to review and approval by the board of selectmen.
10 After approval to adopt such plan, hereinafter referred to as "the Plan", the board of selectmen
11 may implement the Plan in phases, as may be determined from time-to-time by the board of
12 selectmen. In determining if the Plan shall be implemented in phases, the board of selectmen
13 shall consider the following factors, among other relevant factors: the total cost of completing
14 the work under the Plan; the amount of funds collected by the utility from its customers in the
15 town of Chelmsford in relation to the total cost of completing the work under the Plan; and the

16 progress the utility is making towards completing the work under the Plan. Any phasing of
17 implementing the Plan shall not constitute an amendment of the Plan. In determining whether to
18 implement the Plan in phases, the board of selectmen shall consult with the utility;
19 notwithstanding, the decision regarding phasing shall be in the sole discretion of the board of
20 selectmen.

21 A utility shall be subject to the provisions of this act, if the utility is required to remove
22 poles, overhead wires or associated overhead structures that it owns or operates in the town of
23 Chelmsford, under section 119-3 of chapter 119 of the bylaws adopted at the Annual Town
24 Meetings held on April 26, 1999 and October 20, 2008, of said town. The board of selectmen
25 may extend the time of any required filing by a utility under this section and may review and
26 approve any modification of the Plan filed by a utility at any time.

27 The utility may charge its customers in the town of Chelmsford a surcharge as provided
28 for in chapter 166 of section 22M of the General Laws, or successor statute, to pay for the work
29 provided for in the Plan hereinafter referred to as "the Surcharge". Commencing with the
30 calendar year beginning January 1, 2011, the utility shall calculate interest on the difference
31 between the funds charged to customers in the town of Chelmsford through the Surcharge and
32 the payments of the utility in accordance with the Plan at a rate equivalent to the rate paid on
33 two-year, United States Treasury notes, for the preceding twelve (12) months ending December
34 31 of any year, said interest shall be compounded annually on December 31, or higher interest
35 rate as may be agreed upon by Chelmsford and the utility. The interest accrued by the utility
36 shall be applied to the financing of the Plan.

37 Commencing with the calendar year 2011, on or before March 31 of each year, the utility
38 shall prepare a detailed report to the Chelmsford board of selectmen regarding the actions taken

39 to implement the Plan. The report shall include, but not be limited to the following information:
40 the number of customers in the town of Chelmsford from whom the Surcharge was billed,
41 including those electric distribution customers billed by competitive suppliers for the preceding
42 calendar year; the amount of the Surcharge billed to the customers in the town of Chelmsford;
43 the accrued interest earned as defined in the preceding paragraph; and the balance of funds in
44 excess of or less than payments associated with the Plan as of December 31 of the preceding
45 calendar year. The report shall also contain aggregated information on expenses for the following
46 items: engineering and design, materials and construction, land acquisitions, taxes and public
47 safety.

48 The board of selectmen may temporarily or permanently suspend the collection of the
49 Surcharge from the utility's customers in the town of Chelmsford upon the following: (a) the
50 board of selectmen gives notice of and holds a public hearing regarding consideration of such
51 suspension; (b) the notice of the public hearing is published in a newspaper of general circulation
52 in the town and posted on a town bulletin board and on the town's website at least 14 days before
53 the date of the hearing; (c) the notice of public hearing is sent by certified mail, return receipt
54 requested, at least 14 days before the date of the hearing to the utility for which the suspension is
55 being considered; and (d) after said hearing, the board of selectmen finds: (i) the utility has
56 collected sufficient funds through the Surcharge from the customers in the town of Chelmsford
57 to carry out the Plan, or (ii) the utility has collected sufficient funds from its customers in the
58 town of Chelmsford through the Surcharge to fund a phase of the Plan.

59 **SECTION 2.** This act shall take effect upon its passage.