

SENATE, No. 2662

[December 13, 2010 - Text of the Senate amendment (Bills in the Third Reading) to the House Bill authorizing the town of Chelmsford to regulate the removal of aboveground utility poles and overhead wires and other associated structures and to regulate the installation of underground wires and associated structures House, No. 4408.]

The Commonwealth of Massachusetts

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In the Year Two Thousand and Ten
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1 SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, a
2 utility in the town of Chelmsford, which is required to remove poles, overhead wires or associated
3 overhead structures that the utility owns or operates in the town of Chelmsford, under section 119-3 of
4 chapter 119 of the by-laws adopted at the Chelmsford Annual Town Meetings held on April 26, 1999 and
5 October 20, 2008 shall file a plan, hereinafter referred to as the “Plan”, for said removal and for any
6 related installation of underground wires and associated structures. The board of selectmen may extend
7 the time of any required filing by a utility under this section and may review and approve any
8 modification of the Plan filed by a utility at any time.

9 A utility required to file a Plan with the board of selectmen of the town of Chelmsford shall file
10 its plan within 90 days after the effective date of this act, which plan shall be subject to review and
11 approval by the board of selectmen. After approval of the Plan, the board of selectmen may implement
12 the Plan in phases, as may be determined from time-to-time by the board of selectmen; provided,
13 however, that phasing the implementation of the Plan shall not constitute an amendment of the Plan. In
14 determining if the Plan shall be implemented in phases, the board of selectmen shall consider the
15 following factors, among other relevant factors: the total cost of completing the work under the Plan; the
16 amount of funds collected by the utility from its customers in the town of Chelmsford in relation to the
17 total cost of completing the work under the Plan; and the progress the utility is making towards

18 completing the work under the Plan. The board of selectmen shall consult with the utility; but shall have
19 the sole discretion to determine whether to implement the Plan in phases.

20 The utility may charge its customers in the town of Chelmsford a surcharge, hereinafter referred
21 to as the "Surcharge", as provided for in section 22M of chapter 166 of the General Laws, or successor
22 statute, to pay for the work provided for in the Plan. For calendar years beginning on or after January 1,
23 2011, the utility shall calculate interest on the difference between the funds charged to customers in the
24 town of Chelmsford through the Surcharge and the payments of the utility under the Plan at a rate
25 equivalent to the rate paid on 2-year United States Treasury notes for the preceding calendar year or a
26 higher interest rate as may be agreed upon by the town of Chelmsford and the utility. The interest shall be
27 compounded annually on December 31. The interest accrued by the utility shall be applied to the
28 financing of the Plan.

29 On or before March 31 of each year, the utility shall prepare a detailed report to the Chelmsford
30 board of selectmen regarding the actions taken to implement the Plan. The report shall include, but not be
31 limited to, the following information: the number of customers in the town of Chelmsford from whom the
32 Surcharge was billed, including those electric distribution customers billed by competitive suppliers for
33 the preceding calendar year; the amount of the Surcharge billed to the customers in the town of
34 Chelmsford; the accrued interest earned as defined in the preceding paragraph; and the balance of funds in
35 excess of or less than payments associated with the Plan as of December 31 of the preceding 12 months.
36 The report shall also contain aggregated information on expenses for the following items: engineering and
37 design, materials and construction, land acquisitions, taxes and public safety.

38 The board of selectmen may temporarily or permanently suspend the collection of the Surcharge
39 from the utility's customers in the town of Chelmsford if: (a) the board of selectmen gives notice of and
40 holds a public hearing regarding consideration of such suspension; (b) the notice of the public hearing is
41 published in a newspaper of general circulation in the town and posted on a town bulletin board and on

42 the town's website at least 14 days before the date of the hearing; (c) the notice of public hearing is sent
43 by certified mail, return receipt requested, at least 14 days before the date of the hearing to the utility for
44 which the suspension is being considered; and (d) after said hearing, the board of selectmen finds: (i) the
45 utility has collected sufficient funds through the Surcharge from the customers in the town of Chelmsford
46 to carry out the Plan or (ii) the utility has collected sufficient funds from its customers in the town of
47 Chelmsford through the Surcharge to fund a phase of the Plan.

48 SECTION 2. This act shall take effect upon its passage.