

**HOUSE . . . . . No. 4101**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Paul J. Donato and Sal N. DiDomenico*

*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 authorizing the Division of Capital Asset Management and Maintenance to grant easements.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>

**HOUSE . . . . . No. 4101**

By Representative Donato of Medford and Senator DiDomenico, a joint petition (subject to Joint Rule 12) of Paul J. Donato, Sal N. DiDomenico and Sean Garballey that the commissioner of Capital Asset Management and Maintenance be authorized to grant certain subsurface easements. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court  
(2015-2016)

An Act authorizing the Division of Capital Asset Management and Maintenance to grant easements.

*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 sections 32 to 37, inclusive, of chapter 7C of the General  
2 Laws 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 convey permanent subsurface easements over, under and through portions of  
5 land on the westerly and easterly side of the Aberjona River adjacent to Bacon Street and  
6 associated with an existing NSTAR Electric underground transmission line and a new  
7 underground transmission line located on land associated with the Upper Mystic Lake  
8 Reservation and on the westerly side of the MBTA Wedgemere T-Station and the upper Mystic  
9 Valley Parkway at the intersection of Bacon Street and located in the Town of Winchester, and  
10 which land is currently under the control of and used by the Department of Conservation and  
11 Recreation, to NSTAR Electric Company, a Massachusetts Corporation, its successors and

12 assigns, solely for the purposes of laying, constructing, maintaining, accessing, operating,  
13 replacing, repairing, abandoning and removing underground electric transmission lines and  
14 appurtenant facilities for the transmission of electricity, subject to the provisions of sections 4  
15 and 5 and to such reasonable additional terms and conditions consistent with this act as the  
16 Commissioner of Capital Asset Management and Maintenance, in consultation with the  
17 Commissioner of Conservation and Recreation, may prescribe.

18         The parcels are more particularly described as portions under and through land subject to  
19 an order of taking dated April 18, 1895 and recorded in the Middlesex County Registry of Deeds  
20 (southern district) in Book 2375, Page 546 and which is currently under the control of and used  
21 by the Department of Conservation and Recreation. The existing underground electric  
22 transmission line and the permanent 20-foot wide easement to be granted is situated on land  
23 between the Bacon Street (Rte. 38) municipal right-of-way boundary and traversing westerly  
24 under the Aberjona River to the easterly parcel boundary of the MBTA Wedgemere T-Station  
25 and Lowell Line right-of-way for approximately 560 linear feet, more or less and traversing  
26 westerly from the westerly parcel boundary of land controlled by the Town of Winchester and  
27 adjacent to the MBTA Wedgemere T-Station and Lowell Line right-of-way for approximately 70  
28 linear feet to the parcel boundary at the Mystic Valley Parkway and the permanent 20 foot wide  
29 easement to be granted shall apply to the aggregate of existing pipe-type cable and surrounding  
30 conduit, more or less; and, the new underground electric transmission line and permanent 20-foot  
31 wide easement to be granted shall be situated on land between the Fenwick Road municipal  
32 right-of-way boundary and traversing westerly under the Aberjona River to the easterly parcel  
33 boundary of the Lowell Line right-of-way and MBTA Wedgemere T-Station for approximately  
34 600 linear feet by 20 feet wide, more or less, and traversing westerly from the westerly parcel

35 boundary of the Lowell Line right-of-way and MBTA Wedgemere T-Station approximately 135  
36 linear feet by 20 feet wide, more or less, to the parcel boundary at the Mystic Valley Parkway  
37 and the permanent easement to be granted shall apply to the aggregate of existing pipe-type cable  
38 and surrounding conduit, more or less, as shown as Figure 1A on a plan entitled “Mystic-  
39 Woburn Transmission Project – Article 97, Existing Line 211-514 and New Line 211-514Y  
40 Aberjona River & MBTA Crossings” prepared by POWER Engineers Consulting, and dated  
41 December 4, 2015, 2015, which is on file with the Department of Conservation and Recreation.

42           Modifications to the easement descriptions set forth in the plan may be made in order to  
43 conform to the requirements of a decision by the Department of Public Utilities and with a final  
44 land survey, as accepted by the departments, prior to any conveyance to carry out this act. The  
45 final survey shall be recorded in the Middlesex District Registry of Deeds.

46           SECTION 2. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General  
47 Laws or any other general or special law to the contrary, the Commissioner of Capital Asset  
48 Management and Maintenance, in consultation with the Commissioner of Conservation and  
49 Recreation, may convey permanent subsurface easements associated with the NSTAR Electric  
50 Company existing transmission line and a new transmission line on which land is currently under  
51 the control of and used by the Department of Conservation and Recreation, to NSTAR Electric  
52 Company, under and through portions of land on the northerly and southerly side of the Mystic  
53 River known as Mystic Valley Reservation, within MacDonald Park between the Mystic Valley  
54 Parkway (Rte. 16) and Winthrop Street and South Street located in the City of Medford.

55           The parcels are more particularly described as portions under and through land subject to  
56 an order of taking dated November 26, 1899 and recorded in the Middlesex County Registry of

57 Deeds (southern district) in Book 2787, Page 537 and under the control of and used by the  
58 Department of Conservation and Recreation. The existing underground electric transmission line  
59 and the permanent 20-foot wide easement to be granted is situated on land between the Winthrop  
60 Street (Rte. 38) municipal right-of-way boundary and traversing southerly under the Mystic  
61 River to the South Street municipal right-of-way boundary for approximately 166 linear feet,  
62 more or less and the permanent 20-foot wide easement to be granted shall apply to the aggregate  
63 of existing pipe-type cable and surrounding conduit, more or less; and, the new underground  
64 electric transmission line and permanent 20-foot wide easement shall be situated on same land  
65 between the Winthrop Street (Rte. 38) municipal right-of-way boundary and traversing southerly  
66 under the Mystic River to the South Street municipal right-of-way boundary for approximately  
67 470 linear feet by 20 feet wide, more or less, and the permanent easement to be granted shall  
68 apply to approximately 0.22 acres of land in the aggregate, more or less, as shown as Figure 2A  
69 on a plan entitled “Mystic-Woburn Project - Article 97 Filing, Existing Line 211-514 and New  
70 Line 211-514Y Mystic River Crossing” prepared by POWER Engineers Consulting, and dated  
71 October 30, 2015, which is on file with the Department of Conservation and Recreation.  
72 Modifications to the easement descriptions set forth in the plan may be made in order to conform  
73 to the requirements of a decision by the Department of Public Utilities and with a final land  
74 survey, as accepted by the departments, prior to any conveyance to carry out this act. The final  
75 survey shall be recorded in the Middlesex District Registry of Deeds.

76 SECTION 3. The fair market value of the easements described in section 1 and 2 and the  
77 land in section 6, or the value in use as proposed, shall be based on independent professional  
78 appraisals, as commissioned by the commissioner of capital asset management and maintenance.  
79 NSTAR Electric Company shall compensate the Commonwealth in an amount greater than or

80 equal to the full and fair market value, or the value in use of the easements as proposed,  
81 whichever is greater, as determined by the independent appraisals. NSTAR Electric Company  
82 shall assume all costs associated with any engineering, surveys, appraisals, deed preparation and  
83 other expenses deemed necessary by the Commissioner of Capital Asset Management and  
84 Maintenance to execute the conveyances authorized by this act. All money paid to the  
85 Commonwealth by NSTAR Electric Company as a result of the conveyances authorized by this  
86 section shall be deposited in the General Fund. The Commissioner of Capital Asset Management  
87 and Maintenance shall submit the appraisals and a report thereon to the Inspector General for  
88 review and comment. The Inspector General shall review and approve the appraisals and the  
89 review shall include an examination of the methodology utilized for the appraisals. The Inspector  
90 General shall prepare a report of the review and file the report with the Commissioner of Capital  
91 Asset Management and Maintenance for submission by the Commissioner to the house and  
92 senate committees on ways and means and the senate and house chairs of the joint committee on  
93 state administration. The Commissioner shall submit copies of the appraisals, the report thereon  
94 and the Inspector General's review and approval, and comments, if any, to the house and senate  
95 committees on ways and means and the senate and house chairs of the joint committee on state  
96 administration prior to the execution of the conveyances authorized by this act.

97         SECTION 4. Notwithstanding any general or special law to the contrary, on the effective  
98 date of this act, the department of conservation and recreation may grant a temporary license, not  
99 to exceed 5 years, at a nominal amount to NSTAR Electric Company in order to provide NSTAR  
100 Electric Company with immediate and complete access to, control of and liability and  
101 responsibility for the property described in section 1 and 2 shall for the purposes of this act until  
102 the conveyances authorized by this act take effect.

103           SECTION 5. No instrument conveying by or on behalf of the commonwealth any  
104 easement described in section 1 and 2 shall be valid unless such instrument provides that the  
105 easements shall be used solely for the purposes described in this act. The easement instrument  
106 shall include a provision which shall state that in the event that the easements cease to be used by  
107 NSTAR Electric Company, or its successors or assigns, for the purposes described in this act the  
108 easements shall revert to the commonwealth under the control of and use by the department of  
109 conservation and recreation, upon such terms and conditions as the commissioner of capital asset  
110 management and maintenance may determine. If the easements revert to the commonwealth, any  
111 further disposition of the easements shall be subject to sections 32 to 38, inclusive, of chapter 7C  
112 of the General Laws and the prior approval of the general court. The terms of the easements shall  
113 require that for any installation, maintenance, repair or other work performed in the easement  
114 area, the easement holder shall not limit surface access to parkland or roadways for a period of  
115 time longer than that deemed acceptable by the department of conservation and recreation and  
116 shall restore the surface condition to the equivalent or better condition as determined by the  
117 department.

118           SECTION 6. To ensure a no-net-loss of lands protected for natural resource purposes and  
119 as a condition of the conveyance authorized in section 1, NSTAR Electric Company shall, in  
120 addition to any compensation from NSTAR Electric Company to the commonwealth required  
121 pursuant to section 3, compensate the commonwealth for the easements described in this act  
122 through the transfer to the Department of Conservation and Recreation of Land or, an interest  
123 therein or funding for the acquisition of land or an interest therein equal to or greater than the  
124 appraised value of the easements as determined pursuant to this act. The fair market value of any  
125 land or interest in land proposed to be conveyed by NSTAR Electric Company to the department

126 shall be included within the appraisal required by section 3. The land or, interest therein or  
127 funding shall be acceptable to the department of conservation and recreation and any land or  
128 interest therein, whether conveyed by NSTAR Electric Company or acquired by the department,  
129 shall be permanently held and managed for conservation and recreation purposes by the  
130 department. If the appraised value of any land or interests therein conveyed pursuant to this  
131 section shall be determined to be greater than the appraised value of the easements described in  
132 section 1 and 2, the Commonwealth shall have no obligation to pay the difference. All payments  
133 paid to the Commonwealth as a result of this section shall be deposited in the Conservation Trust  
134 established in section 1 of chapter 132A of the General Laws.