



April 9, 2025

Town of Charlemont Select Board
Charlemont Town Hall
157 Main Street
Charlemont, MA 01339

Re: Petition of Massachusetts Electric Company to Locate Poles and Wires for
19W1 Electrical Distribution Line

Dear Members of the Select Board:

As you know, Massachusetts Electric Company d/b/a National Grid (the “Company” or “MECo”) has petitioned the Selectboard under G.L. 166 § 22 for a Grant of Location to install poles, wires and other appurtenances for the 19W1 electrical distribution line, including along Avery Brook Road (the “Project”). MECo personnel have appeared before the Select Board on December 9 and February 10 in support of the petition and to respond to requests for information and even to redesign the Project to locate the electric lines underground. On February 5, 2025, MECo provided a written response addressing these concerns and requests. The Project Manager supplements that response in a separate letter. This letter explains why the Company cannot provide certain information and addresses the Select Board authority in reviewing the Company’s petition.

I. The Select Board’s Authority Is Governed by G.L. c. 166 §§ 21, 22 as Interpreted by the Supreme Judicial Court.

Chapter 166, Section 21 grants electric companies the right to locate poles or wires “upon, along, under, or across a public way” so long as they do not “incommode the public use of the public ways.” Section 22 establishes the process by which electric companies may petition the host municipality for “for permission to erect or construct” electric overhead lines or underground cables within the public way – i.e., a grant of location (GOL).

The Supreme Judicial Court (SJC) has concluded that local authority to regulate or condition utility projects beyond what is allowed by statute is “severely circumscribed”.¹ Ruling that G.L. c. 164 comprehensively regulate gas and electric utilities, the Court has held that, “the Legislature intended to preempt local activity on the subject *absent an affirmative grant*” of authority.² Consistent with that ruling, the SJC has repeatedly invalidated municipal

¹ Boston Gas Co. v. City of Newton, 425 Mass. 697, 706 (1997).

² Boston Edison v. Bedford, 444 Mass. 772, 782 (1984) (emphasis added). See also Boston Gas Co. v. Somerville, 420 Mass. 702, 704 (1995) (“the Legislature intended to preempt local entities from enacting legislation in this area.”); Newton, 425 Mass. at 699; see Pereira v. New England LNG Co., 364 Mass. 109, 120 (1973) (holding that

actions that create “a burden for the company additional to those which it carries elsewhere” because such burdens create “a variation from the uniformity desirable in the regulation of utilities throughout the Commonwealth.”³ When applied to a petition that simply seeks a location in the public way for additional utility poles on an existing line, these legal principles mean that the Select Board may not withhold its review and approval unless and until the Company (i) provides information about equipment specifications, corporate profits, outages, or speculative projects like the installation of wireless equipment; or (ii) creates various cost estimates for different designs; or (iii) hires third-party consultants.

The Company is always ready and willing to provide whatever information we can to help the Town understand the electrical system, the Company’s work to maintain the reliable supply of electricity, and the regulatory regime under which the Company operates. Those conversations, however, are not directly relevant to the location of poles in the public way and should be divorced from the pending petition.

II. The Select Board Must Act as an Agent of the Commonwealth When Reviewing GOL Petitions from Utilities.

In addition to its pre-emption rulings, the SJC also has held that a municipal board reviewing a GOL petition must act as an agent of the Commonwealth under authority from the Legislature - and not in its local capacity.⁴ That means that the municipal bodies authorized to grant locations for utility infrastructure must do so in a manner that advances the State’s policy of “ensur[ing] uniform and efficient utility services to the public.”⁵ In other communities in its service territory, the Company does not have to supply the type of information demanded by public commenters, or create cost estimates, or investigate alternative designs like undergrounding, or hire consultants in order to secure approval of a petition to install a pole in the public way. In that sense, such requests are neither uniform nor efficient. While the

Legislature “intended to give, and did give . . . paramount power to the Department” to regulate and control storage, transportation, and distribution of gas).

³ New England Tel. & Tel. Co. v. City of Lowell, 369 Mass. 831, 834 (1976). The SJC has also ruled that municipalities cannot (1) “mandate something not required by the statute”, Newton, 425 Mass. at 701; (2) adopt “by-laws or ordinances that are inconsistent with State laws”, Somerville, 420 Mass. at 703; (3) require a utility to expend “sums not required of it in other areas in which it operates” or impose “a burden for the company additional to those which it carries elsewhere”, Lowell, 369 Mass. at 834; (4)

⁴ Town of Sudbury v. Dep’t of Pub. Util., 356 Mass. 406, 423 (1969) (“The grants of locations, licenses in the public ways, by the selectmen acting as agents of the Commonwealth must be within the authority, reasonably construed, granted by s 22, the enabling statute.”); New England Tel. & Tel. Co. v. Brockton, 332 Mass. 662, 664 (1955) (“Without further discussion it is enough to say that the mayor and aldermen in granting locations were acting as public officers under a delegation of power from the Legislature and not as agents of the city.”); Carroll v. Cambridge Electric Light Co., 312 Mass. 89, 93 (1942); Myers v. Town of Lee, 8 Mass. App. Ct. 874, 875 (1979) (“The cities and towns hold the public highways and bridges located within their respective limits as the agents of the Commonwealth in trust for the use of the public as a whole.”).

⁵ Newton, 425 Mass. at 699; see Pereira v. New England LNG Co., 364 Mass. 109, 120 (1973) (holding that Legislature “intended to give, and did give . . . paramount power to the Department” to regulate and control storage, transportation, and distribution of gas)

Company works hard to respond to reasonable requests, I hope the Board can appreciate that it would be impossible to reliably maintain the electrical system if National Grid or other utilities had to accommodate the preferences of every abutting landowner.

III. Charlemont Must Comply with G.L. c. 166 § 22(b) and 22(d) Before Requiring Undergrounding of Electric Lines.

G.L. c. 166 § 22(b) through 22(n) establishes a statutory process for a municipality to achieve the removal of overhead poles and wires along its public ways. This process applies whether the municipality desires for undergrounding to apply town-wide or just in a limited area, like Avery Brook Road. The process includes the municipality adopting an ordinance or by-law following a study of the matter. Ultimately, the law provides that the costs for removal and undergrounding of the poles and wires would be recoverable by the utility company via a surcharge imposed on customers in the affected area.⁶ Additionally the cost of relocating municipal assets from the poles to underground would fall upon the town.⁷ Despite calls for the Company to underground a segment of its distribution lines, the Select Board cannot accomplish that by imposing a condition in a GOL; it must comply with the statutory process.

In closing, the Company will always cooperate with all reasonable requests for information and accommodation. The Company, however, cannot accept conditions that impose costs and burdens that interfere with its ability to provide uniform and efficient service to the public or that deviate from established statutory processes. Accordingly, the Company respectfully requests that the Select Board approve its pending petition at its regularly scheduled meeting in May.

Yours truly,



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National Grid Service Company Inc.

cc: David Arthur, Director of Complex Project Management
Patrick Shea, Project Manager National Grid
Joanne DeRose, Director Community Engagement, Central & Western MA

⁶ G.L. c. 166 § 22(m)

⁷ G.L. c. 166 § 22(j)