

By Mr. Morrissey, a petition (accompanied by bill, Senate, No. 1818) of Michael W. Morrissey for legislation relative to the temporary relocation of utility wires. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE TEMPORARY RELOCATION OF UTILITY WIRES.

*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 39 of Chapter 166 of the General Laws, as appearing in  
2 the 1998 Official Edition, is hereby amended by striking out  
3 Section 39 and inserting in place thereof the following section:—

4 §39 Temporary removal of wires and supporting fixtures.

5 (a) Whenever, in order to move a building or for any other nec-  
6 essary purpose, a person desires that the pipes, mains, poles,  
7 wires, conduits or fixtures of a public utility be cut, disconnected,  
8 or removed, the person which desires the cutting, disconnection,  
9 or removal of pipes, mains, poles, wires, conduits or fixtures of a  
10 public utility shall give written notification thereof to the depart-  
11 ment of telecommunications and energy and the utility company  
12 no later than thirty days prior to the proposal date of the move.  
13 The written notification must contain the location of the site  
14 where the structure is presently located, the location of the final  
15 destination of the structure, the path of the proposed move,  
16 described in reference to the crossings of streets or highways, and  
17 the date of the required cutting, disconnection or removal.

18 The public utility shall not be responsible for any more than  
19 five thousand dollars in costs associated with the cutting, discon-  
20 necting, or removing of the pipes, mains, poles, wires, conduits,  
21 or fixtures, unless the department of telecommunication and  
22 energy, after notice and a public hearing considers the following  
23 factors and so orders. The factors to be considered are:

24 (1) Whether the building to be moved is to be used as afford-  
25 able housing for low and moderate income persons;

26 (2) The replacement value of the building once moved and  
27 rehabilitated;

28 (3) The historic value of the building;

29 (4) The fiscal cost of the building, move and rehabilitation;

30 (5) The public expense involved in the move, including utility  
31 costs, state and city labor costs including police and any other  
32 public funds or expense required to move and rehabilitate the  
33 building;

34 (6) The potential damage to roads, trees or buildings; and

35 (7) The disruption of utility service and street use and the  
36 expense to others who are inconvenienced by the loss of utility  
37 services and/or use of roads or buildings.

38 (b) If the person which desires the cutting, disconnection, or  
39 removal of pipes, mains, poles, wires, conduits, or fixtures  
40 requests a public hearing, it shall be held no later than twenty-one  
41 (21) days prior to the proposed move. Notice of the proposal and  
42 the hearing shall be placed primarily in at least ten (10) locations  
43 in each mile on the proposed route and shall be mailed to the chief  
44 executive officer of every city or town on the route, and each city  
45 or town council person whose district includes any portion of the  
46 route. In addition, the department of telecommunications and  
47 energy shall provide such other notice as required by law and that  
48 is usually given for public hearings of the department of telecom-  
49 munications and energy. The cost of the notices required by this  
50 section shall be paid by the applicant.

51 (c) If after hearing, and considering each of the factors above,  
52 the department of telecommunications and energy finds that the  
53 public benefit, including the factors set out in subsections (1), (2),  
54 and (3) above substantially outweighs the fiscal cost, public  
55 expense, potential damage and disruption set out in subsections  
56 (4), (5), (6) and (7) above. The department of telecommunications  
57 and energy may order that all or part of the utility costs shall be at  
58 the utilities' expense and issue such further orders as may be nec-  
59 essary to facilitate the move. In no event shall the department of  
60 telecommunications and energy approve any more where the com-  
61 bined cost to the affected utilities exceeds twenty-five thousand  
62 dollars.