

**Christine Joyce**

---

9/8 24

**From:** Don Johnson  
**Sent:** Friday, August 22, 2003 3:43 PM  
**To:** Board of Selectmen  
**Subject:** Electric Municipalization Legislation

Over the last several months John and I have received numerous correspondence from Patrick Mehr, a Lexington Town Meeting member and member of the Lexington Electric Utility Committee. Mr. Mehr seeks support from the Acton Board of Selectmen for legislation that has been filed to help facilitate the municipalization of electric utilities. I am attaching Mr. Mehr's supporting documents, most of which have been included in various of your earlier electronic packets.

I have spoken with the Chairman and he has asked that I forward this material again with the explanation that we will include it as a Consent item on the August 8 agenda. If you have any questions, please feel free to call.

Regards,  
Don

8/22/2003

Dear Don:

I look forward to speaking with you after this evening's Acton Board of Selectmen meeting.

The attached 1-page summary constitutes an update for the Board on this legislation which has now been endorsed by 42 municipalities and organizations across Massachusetts, including the MMA (the current Summer 2003 issue of *The Beacon* [page 5] explains the MMA's endorsement).

I also paste below a recent *Boston Globe* op-ed piece which calls this legislation "A promising bill [...which] would restore some power to the consumer".

Best regards,

Patrick Mehr  
Town Meeting Member  
For the Lexington Electric Utility Committee  
day: 781-372-1055  
evening: 781-372-1057  
fax: 781-372-1056  
mehrco@aol.com

---

---

**A BOSTON GLOBE EDITORIAL**

## **Generating local power**

6/16/2003

SHOCKED BY the high cost of electricity and erratic service, municipal officials are looking to the Legislature for help in acquiring the assets of investor-owned utilities such as NStar. A promising bill sponsored by Representative Daniel Bosley of North Adams would smooth the way for communities to run their own municipal light systems, often a cheaper and better way to deliver electricity. Forty-one municipal light departments operate in Massachusetts. But the law related to their establishment is so vague and weighted toward existing utilities that not a single new "muni" has formed in decades. Bosley's bill would compel utilities to sell assets, such as poles, wires, and substations, for fair value. If the parties can't agree on a price, the state Department of Telecommunications and Energy would determine the value of the assets. The electricity battle burns brightest in Lexington. The town's Electric Utility Ad-hoc Committee has reviewed the costs of providing electricity in 15 communities of similar size and found that "munis" charged residential customers on average 24 percent less than NStar. Commercial customers saved an average of 10 percent. A June 13 letter to legislators from Leo McSweeney, chairman of the Lexington Board of Selectmen,

also cites "frequent power outages" and "lack of responsiveness to customer inquiries" as motivating factors to break away. It is in essence a declaration of independence from NStar.

Many NStar customers are still smarting from the summer of 2001, remembered bitterly for its combination of sharp rate increases and widespread outages. The municipal systems, however, seemed to ride it out. Daniel Sack, superintendent of Concord Municipal Light Plant, recalls the sweltering summer almost nostalgically.

"Our load went up 25 percent from May to August, and we carried it with no significant outages," said Sack.

An NStar spokesman, Michael Monahan, says the company has not taken an official position on the bill. But he said it feels to him like a "government takeover."

Towns shouldn't rush to create municipal light departments out of spite. A careful analysis must be made of acquisition and operating costs as well as the effects on the tax base. But Lexington officials believe that such concerns are offset by management efficiencies and the ability to purchase equipment with 20-year tax-exempt bonds. And some municipal light companies make payments in lieu of taxes. The Belmont Municipal Light Department pays 5 percent of gross revenues to the town.

Utility restructuring in 1997 seemed to stimulate competition in the bulk purchase of electricity. But average customers aren't seeing the benefits. The Bosley bill would restore some power to the consumer.

This story ran on page A14 of the Boston Globe on 6/16/2003.  
© Copyright 2003 Globe Newspaper Company.

Dear Don:

I look forward to speaking with you after this evening's Acton Board of Selectmen meeting.

The attached 1-page summary constitutes an update for the Board on this legislation which has now been endorsed by 42 municipalities and organizations across Massachusetts, including the MMA (the current Summer 2003 issue of *The Beacon* [page 5] explains the MMA's endorsement).

I also paste below a recent *Boston Globe* op-ed piece which calls this legislation "A promising bill [...which] would restore some power to the consumer".

Best regards,

Patrick Mehr  
Town Meeting Member  
For the Lexington Electric Utility Committee  
day: 781-372-1055  
evening: 781-372-1057  
fax: 781-372-1056  
mehrco@aol.com

---

A BOSTON GLOBE EDITORIAL

## Generating local power

6/16/2003

SHOCKED BY the high cost of electricity and erratic service, municipal officials are looking to the Legislature for help in acquiring the assets of investor-owned utilities such as NStar. A promising bill sponsored by Representative Daniel Bosley of North Adams would smooth the way for communities to run their own municipal light systems, often a cheaper and better way to deliver electricity. Forty-one municipal light departments operate in Massachusetts. But the law related to their establishment is so vague and weighted toward existing utilities that not a single new "muni" has formed in decades. Bosley's bill would compel utilities to sell assets, such as poles, wires, and substations, for fair value. If the parties can't agree on a price, the state Department of Telecommunications and Energy would determine the value of the assets. The electricity battle burns brightest in Lexington. The town's Electric Utility Ad-hoc Committee has reviewed the costs of providing electricity in 15 communities of similar size and found that "munis" charged residential customers on average 24 percent less than NStar. Commercial customers saved an average of 10 percent. A June 13 letter to legislators from Leo McSweeney, chairman of the Lexington Board of Selectmen,

also cites "frequent power outages" and "lack of responsiveness to customer inquiries" as motivating factors to break away. It is in essence a declaration of independence from NStar.

Many NStar customers are still smarting from the summer of 2001, remembered bitterly for its combination of sharp rate increases and widespread outages. The municipal systems, however, seemed to ride it out. Daniel Sack, superintendent of Concord Municipal Light Plant, recalls the sweltering summer almost nostalgically.

"Our load went up 25 percent from May to August, and we carried it with no significant outages," said Sack.

An NStar spokesman, Michael Monahan, says the company has not taken an official position on the bill. But he said it feels to him like a "government takeover."

Towns shouldn't rush to create municipal light departments out of spite. A careful analysis must be made of acquisition and operating costs as well as the effects on the tax base. But Lexington officials believe that such concerns are offset by management efficiencies and the ability to purchase equipment with 20-year tax-exempt bonds. And some municipal light companies make payments in lieu of taxes. The Belmont Municipal Light Department pays 5 percent of gross revenues to the town.

Utility restructuring in 1997 seemed to stimulate competition in the bulk purchase of electricity. But average customers aren't seeing the benefits. The Bosley bill would restore some power to the consumer.

This story ran on page A14 of the Boston Globe on 6/16/2003.  
© Copyright 2003 Globe Newspaper Company.



## MASSACHUSETTS ALLIANCE FOR MUNICIPAL ELECTRIC CHOICE

### **Communities endorsing**

#### **Bill H1468**

Barnstable  
Bedford  
Brookline  
Burlington  
Cambridge  
Canton  
Carlisle  
Dennis  
Duxbury  
Eastham  
Edgartown  
Framingham  
Franklin  
Hamilton  
Lexington  
Lincoln  
Longmeadow  
Melrose  
Millbury  
Milton  
Natick  
New Bedford  
Newton  
Orleans  
Salem  
Sharon  
Somerville  
Spencer  
Stoneham  
Swampscott  
Tisbury  
Walpole  
Wenham  
West Springfield  
West Tisbury  
Williamstown  
Winchester  
Yarmouth

### **Organizations endorsing**

#### **Bill H1468**

Franklin Regional  
Council of  
Governments  
Massachusetts  
Municipal Assoc.  
(MMA)  
MASSPIRG  
The Energy  
Consortium

### **Background on Bill H1468**

We have been working in Lexington on electricity issues for some time now. Together with several other Massachusetts communities, we believe that an attractive option for a city or town is to “municipalize”, that is to acquire, as MGL Chapter 164 outlines, the distribution plant from the incumbent investor-owned utility (“IOU”) and to operate it as a Municipal Light Plant (“Muni”).

Forty-one Munis already exist in Massachusetts (including Concord, Belmont, Wellesley, Norwood, Peabody, Wakefield, Braintree and Reading). Compared with IOUs, Munis generally offer improved reliability (fewer outages) and reduced rates (lower than NStar by 24% for residential customers and by 10% for commercial accounts over the past 10 years in the greater Boston area). Nationwide, there are about 2,000 municipal utilities, 300 of which serve communities with more than 10,000 customers including cities such as Los Angeles, Jacksonville, Seattle, San Antonio, Austin, Cleveland, Memphis, Sacramento, Omaha, Nashville, Colorado Springs, Chattanooga, Knoxville, Tacoma and Orlando.

But Chapter 164 as it now reads requires clarification for municipalization to become truly feasible: no municipalization has occurred in Massachusetts since 1926. We have therefore worked to draft a bill that would clarify the municipalization process, by explicitly stating that the incumbent utility must sell its assets to the municipality once a fair value has been established for the existing infrastructure. The bill also adjusts certain time lines in Chapter 164 to make the municipalization process more realistic.

The bill (“Bill H1468, relative to purchases of municipal lighting plants”) was filed by Representative Dan Bosley, House Chair of the Government Regulations Committee as chief sponsor with seven other co-sponsors (Representatives Jay Kaufman, Tom Stanley, Tom O'Brien, Jim Marzilli, Frank Smizik, Charles Murphy and Anne Paulsen).

We see tremendous support for this bill as a way to create an alternative to the poor service (low reliability, high rates and lack of responsiveness to local needs) IOUs currently provide. We estimate that a Lexington Muni would offer rates substantially lower than NStar, saving Lexington residents, businesses and the Town \$6-8 million per year.

Forty-two communities and organizations (including the Massachusetts Municipal Association - MMA) have already endorsed this bill and another thirty or so have expressed interest, of which several should endorse the bill shortly. The Summer 2003 issue of *The Beacon* explains MMA’s endorsement of this bill. In its June 16, 2003 editorial, the *Boston Globe* called this legislation “A promising bill [...which] would restore some power to the consumer”.

*Prepared by Patrick Mehr, Lexington Electric Utility Ad-hoc Committee (8/1/03)*

Dear Don Johnson:

I am following up on our telephone conversation with some background information about Bill #H1468 which I hope Acton will endorse. John Murray had received on May 23rd an earlier version of this material.

We have been working in Lexington on electricity issues for some time now. Together with several other towns (including Brookline, Arlington and Bedford), we believe that an attractive option for a city or town is to "municipalize", that is to acquire, as MGL Chapter 164 outlines, the distribution plant from the incumbent investor-owned utility (IOU) and to operate it as a Municipal Light Plant like 41 communities already do in Massachusetts (including North Attleboro, Concord, Belmont, Wellesley, Norwood, Peabody, Wakefield, Braintree and Reading). Compared with IOUs, Municipal Light Plants generally offer improved reliability (fewer outages) and reduced rates (lower than NStar by 24% for residential customers and by 10% for commercial accounts over the past 10 years in the greater Boston area).

But Chapter 164 as it now reads requires clarification if municipalization is to become truly feasible for a city or a town: no municipalization has occurred in Massachusetts since 1926. We have therefore worked to draft a bill that would clarify the municipalization process, by explicitly stating that the incumbent utility must sell its assets to the municipality once a fair value has been established for the existing infrastructure. The bill also adjusts certain time lines in Chapter 164 to make the municipalization process more realistic.

I attach the text of the bill (known as "Bill #H1468, relative to purchases of municipal lighting plants") which was filed by Representative Dan Bosley, House Chair of the Government Regulations Committee as chief sponsor with 7 other co-sponsors (Representatives Jay Kaufman, Tom Stanley, Tom O'Brien, Jim Marzilli, Frank Smizik, Charles Murphy and Anne Paulsen). I also attach an article recently published in our local newspaper which outlines the benefits of municipalization in Lexington (just from reduced electricity rates, Lexington residents and businesses would save \$6-8 million per year, if we had a municipal utility instead of NStar) and a related Boston Globe op-ed piece.

We see tremendous support for this bill as a way to create an alternative to the poor service (low reliability, high rates and lack of responsiveness to local needs, such as undergrounding of the wires and poles to improve the aesthetics of a community) IOUs currently provide. The Massachusetts Municipal Association (MMA) should formally endorse this bill in July, following MMA's Public Works, Transportation and Utilities Policy Committee unanimous vote to support the bill.

Several communities and organizations have already endorsed this bill (Barnstable, Brookline, Burlington, Cambridge, Carlisle, Easthampton, Edgartown, Hamilton, Lexington, Melrose, Millbury, Milton, Natick, Orleans, Somerville, Spencer, Stoneham, Swampscott, Wenham, Winchester, Franklin Regional Council of Governments,

MassPIRG, The Energy Consortium) and many others have expressed interest (including Arlington, Bedford, Canton, Chelsea, Dartmouth, Dedham, Dennis, Duxbury, Eastham, Fall River, Falmouth, Fitchburg, Greenfield, Lincoln, Longmeadow, Ludlow, Malden, Marshfield, Medford, Needham, New Bedford, Newton, Plymouth, Sharon, Sudbury, Walpole, Wareham, Williamstown, Woburn, the Metropolitan Area Planning Council [MAPC], the Southeastern Regional Planning and Economic Development District [SRPEDD]) and should endorse the bill shortly.

In preparation for Committee hearings on Bill #H1468, we are eager to receive the support of additional cities and towns or of other entities. It would be very helpful if the Acton Board of Selectmen also endorsed this bill at one of its upcoming meetings and wrote to its Representatives and Senators to ask them to support it (I attach a couple of sample letters sent out by communities to their legislators).

After Acton votes to support the bill, we would like to add its name to the attached draft letterhead: the Massachusetts Alliance for Municipal Electric Choice (MAMEC) is the informal alliance of the communities and organizations that have endorsed the bill, formed to more clearly convey the growing support the bill enjoys across the Commonwealth.

Please give me a call so that we can discuss this further. Please feel free to forward this information to officials in other municipalities that may also have an interest in these matters.

Best regards,

Patrick Mehr  
Town Meeting Member  
For the Lexington Electric Utility Committee  
day: 781-372-1055  
evening: 781-372-1057  
fax: 781-372-1056  
mehrco@aol.com

**Bill #H1468: clarification of the process municipalities must follow to create a municipal light plant**

MGL Chapter 164 (particularly Section 43) describes the process a municipality must follow to create a municipal light plant.

41 municipal light plants exist in Massachusetts, but none has been formed since 1926, perhaps because the process outlined in MGL Chapter 164 requires clarification, most notably to state explicitly the existing utility's obligation to sell its assets to the municipality once a price has been established for those assets.

Bill #H1468 amends MGL Chapter 164 as follows:

1. The existing utility must sell its assets to the municipality

The new Section 43 (c) spells out that obligation, after a price has been established for the existing utility's assets.

2. Determination of a price for the existing utility's assets

The new Section 43 (a) provides guidance to DTE (in the event the existing utility and a municipality cannot agree on a price between themselves) on how to determine a price for the assets to be sold to the municipality. The assets are to be valued by DTE on the basis of original cost minus depreciation, after a public hearing.

3. Municipality by municipality accounts must be kept by utilities

The new section 34C requires utilities to maintain accounts regarding the value of its assets in each individual municipality. This will allow a municipality to obtain more easily from the existing utility an estimate of the price to be paid for the utility's assets, should the municipality wish to form a municipal light plant.

4. Transfer of franchise

Section 1B is amended so that the franchise held by the existing utility is transferred to the newly formed municipal light plant, when such a municipal light plant is formed.

## 5. Time lines

The time lines in the process a municipality must follow to create a municipal light plant are adjusted to be more realistic, as follows:

- after the 2 required votes by a city council (Section 35) or a town meeting (Section 36), 150 days are provided for the municipality and the existing utility to agree on the assets to be sold and on a price

- if no agreement is reached within 150 days, the municipality may apply to DTE for determination regarding assets and price; no time limit is required of DTE to act

- if an agreement is reached, DTE must approve the severance plan; no time limit is required of DTE to act

- 30 days after DTE's action: the existing utility must tender a deed of conveyance to the municipality

- after deed is tendered, 180 days are provided for the municipality to accept or reject the deed or to appeal it to DTE

- if the municipality accepts the deed, it has another 180 days to pay the existing utility the price for the assets.

AN ACT TO SIMPLIFY AND CLARIFY THE PURCHASE OF EXISTING PLANT BY A MUNICIPAL LIGHTING PLANT

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1: Section forty-three of chapter one hundred sixty-four of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking said section in its entirety and inserting in place thereof the following section:—

Section 43. (a) If a municipality which votes to establish a municipal lighting plant fails, within one hundred and fifty days from the passage of the final vote required by section thirty-five or thirty-six, to agree, as to price or as to the property to be included in the purchase, with any person or municipal light plant engaged at the time of the first vote required by said section thirty-five or thirty-six in generating or distributing gas or electricity for sale in such municipality, either such municipality or such person or municipal light plant may apply to the department for a determination as to what property ought in the public interest to be included in the purchase and what price should be paid, which shall be equal to the cost of the property less a reasonable allowance for depreciation and obsolescence, and any other element which may enter into a determination of a fair value of the property so purchased, but such value shall be estimated without enhancement on account of future earning capacity, lost sales, good will, physical reconfiguration of the owner's utility plant and system or of exclusive privileges derived from rights in the public ways; and thereupon the department, after notice to the parties, shall give a hearing thereon and make the determination aforesaid. Such property shall include such portion of the property of such person or municipal light plant within the limits of such town as is suitable for, and used in connection with, the generation or distribution of gas or electricity within such limits; provided, that such purchase shall include both a gas and electric lighting plant only if a single corporation owns or operates both such plants.

(b) Such price shall include damages, if any, which the department finds would be caused by the severance of the property proposed to be included in the purchase from other property of the owner. If the owner and the municipality agree on a plan for severance of property, the department shall approve such plan, upon a finding that it is in the public interest. If the owner and the municipality do not agree on such a plan, the department shall approve the severance plan that results in the lowest identifiable and achievable total cost to Massachusetts energy consumers, through any combination of joint ownership, contractual arrangements for delivery of power, and new construction. The department shall also set terms and conditions for the transfer. If any such property is subject to any mortgages, liens or other encumbrances, the department in making its determination shall provide for the deduction or withholding from the purchase price, pending discharge, of such sum or sums as it deems proper.

(c) Within thirty days after such determination shall have been made by the department, the owner shall tender a good and sufficient deed of conveyance to the city or town clerk of the property required by the department to be purchased, and shall then place said deed in escrow. The municipality shall have one hundred and eighty days in which to accept or reject said tender, or to appeal to the department any aspect of the owner's proposed deed of conveyance. If the municipality accepts, it shall have a further period of one hundred and eighty days in which to pay to the owner the price determined as hereinbefore

provided. Such acceptance or rejection in case of a city shall be by vote of its city council, or its commissioners if its government consists of a commission, and in case of a town shall be by vote at a town meeting, or by such town officer or body to which town meeting shall delegate such authority. In the event that the owner fails to comply with the preceding requirements, the price to be paid by the municipality will immediately be reduced by one percent of the price determined by the department. For every thirty additional days that pass prior to the owner's compliance with the preceding requirements, the price will be reduced by an additional one percent. Provided, however, that the department may waive such reduction if it finds that the delay in compliance was beyond the control of the owner.

d) In connection with the exercise by any municipality of the option to purchase utility plant pursuant to this section, the municipality shall assume the rights and obligations of the previous owner with respect to any person other than the electric company controlling poles, conduit or other jointly-owned or joint-use facilities, property and rights; provided, however, that in the assumption of the rights and obligations of the previous owner by such a municipality, such municipality shall in no way or form restrict, impede, or prohibit access that other parties would enjoy under the previous ownership.

SECTION 2: Section 1B of chapter one hundred sixty-four of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding to the end of paragraph (a) the following:—

except that the purchase by a municipality of plant from a distribution company shall transfer all rights and obligations established in this section to the municipal lighting plant of the purchasing municipality.

SECTION 3: Chapter one hundred sixty-four of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after section 34B the following new section:—

Section 34C: Each distribution company shall maintain accounts of plant in service in each municipality in its service territory, including the original cost of plant, accumulated depreciation, and any other measures of the value of plant that the department may order used for determination of sale prices under Section 43 of this chapter. The distribution company shall maintain such accounts by the system of accounts approved by the department. Upon the request of any clerk of any municipality in its service territory, the distribution company shall provide such accounts for that municipality within thirty days. In the event that the distribution company fails to comply with this provision, it shall be liable to the municipality for one thousand dollars for every day of noncompliance.

## Generating local power

6/16/2003

**SHOCKED BY** the high cost of electricity and erratic service, municipal officials are looking to the Legislature for help in acquiring the assets of investor-owned utilities such as NStar. A promising bill sponsored by Representative Daniel Bosley of North Adams would smooth the way for communities to run their own municipal light systems, often a cheaper and better way to deliver electricity. Forty-one municipal light departments operate in Massachusetts. But the law related to their establishment is so vague and weighted toward existing utilities that not a single new "muni" has formed in decades. Bosley's bill would compel utilities to sell assets, such as poles, wires, and substations, for fair value. If the parties can't agree on a price, the state Department of Telecommunications and Energy would determine the value of the assets.

The electricity battle burns brightest in Lexington. The town's Electric Utility Ad-hoc Committee has reviewed the costs of providing electricity in 15 communities of similar size and found that "munis" charged residential customers on average 24 percent less than NStar. Commercial customers saved an average of 10 percent. A June 13 letter to legislators from Leo McSweeney, chairman of the Lexington Board of Selectmen, also cites "frequent power outages" and "lack of responsiveness to customer inquiries" as motivating factors to break away. It is in essence a declaration of independence from NStar.

Many NStar customers are still smarting from the summer of 2001, remembered bitterly for its combination of sharp rate increases and widespread outages. The municipal systems, however, seemed to ride it out. Daniel Sack, superintendent of Concord Municipal Light Plant, recalls the sweltering summer almost nostalgically.

"Our load went up 25 percent from May to August, and we carried it with no significant outages," said Sack.

An NStar spokesman, Michael Monahan, says the company has not taken an official position on the bill. But he said it feels to him like a "government takeover."

Towns shouldn't rush to create municipal light departments out of spite. A careful analysis must be made of acquisition and operating costs as well as the effects on the tax base. But Lexington officials believe that such concerns are offset by management efficiencies and the ability to purchase equipment with 20-year tax-exempt bonds. And some municipal light companies make payments in lieu of taxes. The Belmont Municipal Light Department pays 5 percent of gross revenues to the town.

Utility restructuring in 1997 seemed to stimulate competition in the bulk purchase of electricity. But average customers aren't seeing the benefits. The Bosley bill would restore some power to the consumer.

This story ran on page A14 of the Boston Globe on 6/16/2003.

© Copyright 2003 Globe Newspaper Company.

June 12, 2003

Senator Susan C. Fargo, Room 504  
Senator Robert A. Havern, Room 513  
Representative Jay R. Kaufman, Room 489  
Representative Thomas M. Stanley, Room 146  
State House  
Boston, MA 02133

Dear Senators Fargo and Havern, Representatives Kaufman and Stanley:

On behalf of the Lexington Board of Selectmen, I am writing to ask for your support for Bill #H1468, relative to purchases of municipal lighting plants ("Bill #H1468").

Bill #H1468 was filed by Representative Dan Bosley, House Chair of the Government Regulations Committee as chief sponsor, with Representatives Jay Kaufman, Jim Marzilli, Charles Murphy, Tom O'Brien, Anne Paulsen, Frank Smizik and Tom Stanley as co-sponsors, as a result of the work of the Lexington Electric Utility Ad-hoc Committee established in early 2002 by our Board of Selectmen, and of similar work ongoing in other communities, such as Brookline.

Bill #H1468 clarifies and simplifies Chapter 164 to make it practically feasible for a city or town to acquire, as Chapter 164 already allows, the electric distribution plant from the investor-owned utility ("IOU") serving that community, and to operate it as a Municipal Light Plant ("Muni"). 41 Munis already exist in Massachusetts (including Concord, Belmont, Wellesley, Peabody, Reading, Braintree, Norwood, Westfield, Holyoke, etc), but no new one has been formed since 1926, in great part due to the implicit obstacles in Chapter 164 as it currently reads, which Bill #H1468 would remove. Specifically, the bill states that the incumbent IOU must sell its assets to the municipality once a fair value has been established for the existing infrastructure, and it adjusts certain time lines in Chapter 164 to make the municipalization process more realistic.

We believe, with the explicit support of the 2003 Lexington Town Meeting, that Bill #H1468 is a welcome measure in our Commonwealth for two key reasons.

First, the bill introduces de-facto competition in the electricity distribution business for existing Massachusetts IOUs, by making it truly feasible for a municipality to form a Muni to replace the existing IOU. While the 1997 Electricity Restructuring Act introduced competition for bulk purchases of electricity, no such competition exists today for electricity distribution, leaving a municipality that is dissatisfied with its IOU's poor service (frequent power outages, lack of responsiveness to customer inquiries, etc) or high rates (which keep increasing) without real recourse. The oversight of IOUs by the Massachusetts Department of Telecommunications and Energy appears unfortunately not to be a viable alternative to real competition in getting IOUs to improve their service and to better control their rates.

Second, the bill would result in substantial economic benefits for local residents and businesses and for the budgets of local municipalities without any impact on the State budget. Our Electric Utility Ad-hoc Committee looked at the performance of the 15 existing Boston-area Munis comparable in size to Lexington (Belmont, Braintree, Concord, Danvers, Hingham, Hudson, Mansfield, Marblehead,

Middleboro, North Attleboro, Norwood, Peabody, Shrewsbury, Wakefield and Wellesley) over the 10-year period 1992–2001, and found that Munis charged residential customers on average 24% less than NStar, and commercial customers on average 10% less than NStar, while providing what is generally viewed as much better service (fewer outages, better responsiveness to community needs). Our Committee estimates that if Lexington was served by its own Muni, Lexington residents, businesses and the Town itself would enjoy a reduction in their electricity bills of about \$6-8 million per year, compared with NStar's current rates. To put these figures in perspective, the Town of Lexington's 2004 budget is \$118 million.

Bill #H1468 is receiving strong support throughout the Commonwealth. We expect the Massachusetts Municipal Association to endorse this bill in July following the unanimous support given to the bill by MMA's Public Works, Transportation and Utilities Policy Committee. Besides Lexington, Brookline, Burlington, Easthampton, Edgartown, Hamilton, Millbury, Milton, Orleans, Spencer, Stoneham, Wenham and Winchester have already endorsed this bill, as well as the Franklin Regional Council of Governments and MassPIRG. Other communities and organizations have expressed interest in this bill (including Acton, Arlington, Barnstable, Bedford, Cambridge, Canton, Carlisle, Chelsea, Dartmouth, Dedham, Dennis, Eastham, Fall River, Falmouth, Fitchburg, Greenfield, Lincoln, Ludlow, Malden, Medford, Melrose, Natick, Needham, New Bedford, Newton, Plymouth, Sharon, Sudbury, Swampscott, Walpole, Wareham, Williamstown, Woburn, the Metropolitan Area Planning Council [MAPC] and the Southeastern Regional Planning and Economic Development District [SRPEDD]) and we expect several of these communities and organizations to endorse the bill in the coming weeks.

I encourage you to support Bill #H1468 and I hope that you will work to ensure its enactment. Please do not hesitate to contact me or Paul Chernick, Chair of the Lexington Electric Utility Ad-hoc Committee (781-863-1326 [paul.chernick@verizon.net](mailto:paul.chernick@verizon.net)) in regard to this matter.

Sincerely,

Leo McSweeney  
Chair, Lexington Board of Selectmen

Cc: Representative Daniel E. Bosley, Room 472  
Senator Michael W. Morrissey, Room 413-D

June 17, 2003

Dear Representative \_\_\_\_\_ :

On behalf of the Natick Board of Selectmen please accept this letter as an endorsement of House Bill 1468, relative to town purchase of municipal lighting plants, which was filed by Representative Dan Bosley, House Chair of the Government Regulations Committee as chief sponsor with 7 other co-sponsors (Representatives Jay Kaufman, Tom Stanley, Tom O'Brien, Jim Marzilli, Frank Smizik, Charles Murphy and Anne Paulsen).

House Bill 1468 came as a result of the efforts of a number of communities (Lexington, Brookline, Arlington, Bedford and Stoneham), seeking to change MGL Chapter 164. The proposed changes would enhance the ability for a city or town to form a municipal electric utility. Currently, Chapter 164 does not provide for an efficient nor effective mechanism to allow communities to exercise the option to form a municipal utility.

House Bill 1468 would clarify the process by which a municipality could acquire from the investor-owned utility (IOU) serving a particular community the necessary assets to operate a municipal utility. There are currently forty-one municipal Light departments in the Commonwealth, including the towns of Wellesley, Concord, Belmont, Braintree, Hingham, Taunton and Reading. The proposed legislation would require an IOU to sell its assets to a municipality once a fair value has been established for the existing infrastructure. The bill also adjusts certain time lines in Chapter 164 to make the acquisition process more realistic.

The Natick Board of Selectmen unanimously agreed to endorse House Bill 1468 at their meeting on June 16, 2003 and request that you actively support this legislation. The Board would like the flexibility to be able to exercise this option should it be deemed advisable sometime in the future.

Thank you very much for your attention to this matter. Please do not hesitate to contact me in regard to this matter.

Sincerely,

Philip E. Lemnios  
Town Administrator

Cc: Board of Selectmen  
Representative Daniel Bosley  
Patrick Mehr, Lexington Electric Utility Committee

# MAMEC

MASSACHUSETTS ALLIANCE FOR MUNICIPAL ELECTRIC CHOICE

**Communities**

*endorsing*

**Bill H1468**

*Barnstable*

*Brookline*

*Burlington*

*Cambridge*

*Carlisle*

*Edgartown*

*Hamilton*

*Lexington*

*Melrose*

*Millbury*

*Milton*

*Natick*

*Orleans*

*Somerville*

*Spencer*

*Stoneham*

*Swampscott*

*Wenham*

*Winchester*

[Draft Letterhead as of 6/26/03]

**Organizations**

*endorsing*

**Bill H1468**

*Franklin Regional*

*Council of*

*Governments*

*Mass Municipal*

*Association (MMA)*

*MASSPIRG*

*The Energy*

*Consortium*

# Options for lower rates and better service: local “muni”

Lexington Electric Utility Ad-hoc Committee

By Patrick Mehr and Paul Chernick

When Lexington residents, businesses and public officials have questions about their electric bills, are concerned about the appearance or safety of electric lines, or just want to know why their power is out and what is being done to correct the problem, they must deal with NStar (formerly known as Boston Edison), the investor-owned electric company that currently serves our town. Whether Lexingtonians get any response, and whether that response is satisfactory, depends on NStar’s automated phone system, its policy decisions and the commitment (or lack of it) of employees scattered all over eastern Massachusetts.

In 41 Massachusetts cities and towns, electric services are provided by a municipally-owned utility (“muni”), which owns the electric distribution system (poles, wires, transformers, substations, etc) in the community and performs all the functions of any other utility, including maintenance, billing, and power supply.

The effects of local control are striking. Dealing with billing, aesthetics, safety and reliability problems requires only a call to the local muni, whose staff knows every street in town. People who have lived in towns served by a muni generally report a high level of responsiveness.

In contrast to the frustrations of dealing with investor-owned utilities, a town with a muni can set policy directions, and get those policies implemented. Right next door to us, Concord has chosen to systematically place its electric distribution network underground, eliminating the visual blight of the maze of utility wires and equipment on poles along its streets. Concord’s ownership of the electric distribution system allows it to coordinate undergrounding with other Town functions (water, sewer and highway resurfacing) to minimize the cost of this otherwise expensive project. Other munis have pursued green power, for example by building wind turbines.

Munis also offer substantially lower rates and more reliable service than NStar. For example, in 2001, a typical Lexington household paid NStar 28% more than Concord residents paid for the same electric consumption: while it was undergrounding the electric infrastructure, the Concord Muni was able to charge \$280 less per year per household than NStar did in Lexington.

Concord’s low rates are not an aberration. Lexington’s Electric Utility Ad-hoc Committee has reviewed the performance of the fifteen Boston-area munis with 7,500–15,000 customers, comparable in size to Lexington, which has 12,600 electric customers: Concord, Belmont,

Wellesley, Wakefield, Peabody, Norwood, Braintree, Danvers, Hingham, Hudson, Mansfield, Marblehead, Middleboro, North Attleboro and Shrewsbury. We were able to find 132 annual financial reports for these munis over the 10-year period 1992–2001. Except for Hudson and Mansfield in 1992, every comparison showed that the muni charged lower residential rates than NStar’s, every year, by 14% to 35%. Over the 10-year period, muni customers paid an average of 24% less than NStar’s customers. The munis’ commercial and industrial rates were lower than NStar’s 80% of the time, with an average saving of about 10%.

## Economics of a Future Lexington Muni

The Committee’s initial analysis of the costs of purchasing and operating the NStar system in town, based on data from the Concord Muni, indicates that similar rate reductions may be possible in Lexington as well. Munis have two basic cost advantages over larger investor-owned utilities. First, their manageable size and close connection to the community reduce bureaucracy and increase efficiency in management and operations. Second, munis enjoy certain financial advantages. The Town can finance the purchase of NStar’s \$30–40 million of equipment in Lexington with 20-year tax-exempt bonds, which would be repaid by the Lexington Muni out of its revenues. NStar currently finances the same plant with more expensive taxable bonds and equity, and also charges us for the income taxes it pays on its profits.

Our initial analysis suggests that the Lexington Muni could offer residential rates of \$75–80 per month instead of the \$100/month a typical Lexington household currently pays to NStar. Commercial, municipal and industrial customers would also benefit, as shown in Table 1. Total savings on their electric bills for Lexington households, businesses and Town accounts could be \$6–8 million per year, which would more than offset the override proposed for this year.

Type of customer	# customers in Lexington	Muni savings (\$/year/customer)	Muni savings (%)
Residential	10,900	\$250–320	20–25%
Business and municipal	1,700	\$1,750–2,750	9–14%

Table 1: possible savings from a Lexington Muni vs. NStar

While the quality and reliability of electric service are not reported as uniformly as are rates, all the available evidence indicates that munis outperform NStar on these measures, as well.

- Residents familiar with Concord, Belmont and other munis generally report fewer outages than in Lexington.
- In the 1997 April Fools snowstorm, the Belmont Muni had restored service to all its customers while NStar was still seeking assistance from neighboring utilities.

- For the 10-year period 1991–2000, the Massachusetts munis that participated in the American Public Power Association reliability survey report 40% fewer outage minutes for the average customer than does NStar.
- Customer-satisfaction surveys consistently rate munis above investor-owned utilities. For example, the nationwide RKS Emergency Response Benchmark Survey (October 2000–March 2001) rated munis higher than investor-owned utilities on overall service reliability:

Customer satisfaction index	Investor-owned utilities	Municipal utilities
Residential customers	94.15	103.02
Commercial customers	98.36	105.66

Table 2: Customer satisfaction index

## Steps to a Lexington Muni

No city or town in Massachusetts has formed a muni (“municipalized”) since 1926. For much of that time, the investor-owned utilities controlled access to efficient new power plants, and to the transmission network, and municipalization was not economic. Changes in regulation have now removed those hurdles: the wholesale power system is now open and competitive, and munis can buy power as efficiently as any other utility.

The remaining barrier to municipalization is that the current State law is outdated and vague about the municipalization process. Chapter 164 of the Massachusetts General Laws describes the century-old process through which a town can establish its muni by acquiring the assets of the existing utility. With the support of such other towns as Brookline, Arlington and Bedford, we drafted a bill (#H1468) to clarify and expedite the municipalization process. The bill’s chief sponsor is Representative Dan Bosley, House Chair of the Government Regulations Committee, which would have jurisdiction over the bill. We have seven House co-sponsors, including Lexington’s Representatives Jay Kaufman and Tom Stanley; several additional towns, including Stoneham and Burlington, have joined in supporting this bill.

The next formal step toward municipalization would be an engineering study of the financial and operational feasibility of a Lexington Muni, to confirm or correct our initial finding that Lexington could achieve significant savings and improved service. Our Committee proposed appropriating \$150,000 for that study at this year’s Town Meeting. In recognition of this year’s budget constraints, the Committee will delay that request until next year, by which time the prospects for legislative improvements will be clearer. Once the feasibility study is completed, the Selectmen and Town Meeting would decide whether to proceed with the legal and regulatory process to create the muni.

Lexington has already taken the first legal steps to forming a municipal electric utility. In 1996 and 1997, Town Meeting voted to authorize the formation of a muni, as required by State

law. Under Article 13 of this year's warrant, Town Meeting will be asked to reaffirm those votes, and to endorse the continuation of our efforts towards municipalization, creating the option of large financial benefits and service improvements for Lexington residents and businesses.

Please share your questions or comments about electricity matters with the Lexington Electric Ad-hoc Committee by email ([ElectricAdhoc@yahoo.com](mailto:ElectricAdhoc@yahoo.com)) or by calling Ingrid Klimoff (781-862-1112).

*From Lexington Minuteman - March 27, 2003- page 11*