

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

D.P.U. 09-_____

**PETITION OF WESTERN MASSACHUSETTS
ELECTRIC COMPANY FOR EXEMPTIONS FROM
THE ZONING ORDINANCES OF THE
TOWNS OF AGAWAM AND WEST SPRINGFIELD
PURSUANT TO G.L. c. 40A, §3
AND REQUEST FOR CONSOLIDATION**

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TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. STANDARD OF REVIEW 6

III. WMECO IS QUALIFIED AS A PUBLIC SERVICE CORPORATION 7

IV. THE PROJECT REQUIRES ZONING EXEMPTIONS 8

A. Standard of Review..... 8

B. The Project 9

1. Overhead Transmission Lines in Agawam..... 9

2. Agawam Substation 13

3. Overhead Transmission Lines in West Springfield 15

4. West Springfield Substation..... 17

C. Zoning Exemptions are Required 19

**V. THE PROJECT IS REASONABLY NECESSARY FOR THE PUBLIC
CONVENIENCE OR WELFARE 20**

VI. THE PROJECT IS NEEDED 22

VII. ALTERNATIVES CONSIDERED 22

VIII. IMPACTS OF THE PROPOSED PROJECT 23

IX. COMPREHENSIVE EXEMPTION 23

X. ZONING RELIEF REQUIRED 27

APPENDICES

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I. INTRODUCTION

Now comes Western Massachusetts Electric Company (“WMECO” or the “Company”), pursuant to the provisions of G.L. c. 40A, §3, and requests from the Department of Public Utilities (the “Department”) specific zoning exemptions and comprehensive zoning exemptions from operation of Zoning Chapter 180 of the Town of Agawam Code,¹ (the “Agawam Zoning Ordinance”), and the Town of West Springfield Zoning Ordinance² (the “West Springfield Zoning Ordinance,” and together with the Agawam Zoning Ordinance, the “Zoning Ordinances”). WMECO requests zoning exemptions with respect to the use of certain real property for the rebuilding, reconstruction and operation of existing transmission lines in the

¹ Appendix A to this Petition is a certified copy of Zoning Chapter 180 of the Town of Agawam General Code, as amended to July 2008 and certified by Richard M. Theroux, Town Clerk of the Town of Agawam as of March 6, 2009, and the map entitled “Town of Agawam Building Zone Map”, last revision date September 7, 2006, attached at the end of the Zoning Code.

² Appendix B to this Petition is a certified copy of the Town of West Springfield Zoning Ordinance, as amended to October, 2005 and certified by Diane F. Foley, Town Clerk of the Town of West Springfield as of October 3, 2008, and the map entitled “Town of West Springfield Zoning Map” revised to October 7, 2005, attached at the end of the Zoning Ordinance. The West Springfield Zoning Ordinance is currently in the process of being revised. A certified copy will be provided when it is available. WMECO does not believe the revisions will affect the zoning analysis in this Petition.

Towns of Agawam and West Springfield, Massachusetts (the “Agawam-West Springfield Circuit Separation Project” or the “Project”, described more fully in paragraph 3 below) as part of a necessary transmission system reliability upgrade.³ In support thereof, WMECO states as follows:

1. WMECO is a subsidiary of Northeast Utilities (“NU”) and a public service corporation authorized to transmit and distribute electricity. WMECO is an “electric company” as defined by G.L. c. 164, § 1, duly organized and existing under the laws of the Commonwealth of Massachusetts, with a principal place of business in the City of Springfield. As a public service corporation and an electric company, WMECO is entitled to seek zoning exemptions pursuant to G.L. c. 40A, § 3.
2. WMECO proposes to construct, operate and maintain the Project which is jurisdictional to the Department pursuant to both G.L. c. 40A, § 3 and G.L. c. 164, § 72. The primary purpose of the Project is to reinforce the Springfield area transmission system and bring the system into compliance with WMECO’s reliability standards, consistent with applicable national and regional reliability standards.
3. The Project involves reconstructing the existing double-circuit 115-kV line (circuits 1311 and 1412), currently supported on common lattice-steel structures averaging 90 feet in height) between the Agawam and West Springfield Substations, utilizing higher capacity conductors. The existing double-circuit lattice-steel structures will be removed and replaced with two lines of new steel monopole overhead transmission structures averaging 100 feet in height, each supporting the conductors of a single 115-kV circuit.

³ The route for the Project is shown on a United States Geological Survey map, attached as Appendix C-1, entitled “Agawam -West Springfield Circuit Separation Project”. Appendix C-2 references cross-sections, photo simulations and aerial photos for the Project.

There is an existing 13.8-kV distribution line supported on certain of the lattice-steel structures for a portion of the right of way between the Agawam and West Springfield Substations. The distribution line would be replaced onto the new monopoles for the portion of the distribution line that is in the existing right of way. The monopole structures would be installed near the existing lattice-steel structure locations. The existing right-of-way (“ROW”) between the Agawam and West Springfield Substations is approximately 2.5 miles long. It is 150 feet wide for approximately 0.5 miles of this length, and 100 feet wide for the remaining 2.0 miles.

Except for the possible variation for the landfill re-routing described below, the new 1311 and 1412 circuits would be reconstructed within this existing ROW. Beginning at the Agawam Substation, the existing ROW heads eastward, traversing a residential and commercial area, crossing Walnut Street, and then the Westfield River into West Springfield. It then crosses Memorial Avenue (State Route 147) and passes through the Eastern States Exposition Fairgrounds (known as “The Big E”) before once again crossing over the Westfield River. The line traverses agricultural property before crossing over the Westfield River a third and final time into West Springfield. It then traverses Bondi’s Island Landfill, which is owned and operated by the City of Springfield, before terminating at the West Springfield Substation.

As the existing ROW approaches the West Springfield Substation, it traverses Bondi’s Island Landfill for approximately 0.4 miles. In connection with the Project, the City of Springfield has requested that the Company investigate the possibility of re-locating the ROW around the landfill to allow the City to re-use the portion of the ROW in the landfill for landfill purposes. That investigation is ongoing. As a result, the Company is

proposing two route variations for the landfill segment, the first uses the existing ROW in the landfill, and the second is the possible re-routing of the existing ROW around the perimeter of the landfill for 0.7-mile utilizing a new 100-foot-wide ROW.

4. According to the West Springfield and Agawam Zoning Ordinances, the proposed installation and use of facilities for the Project would be located in zoning districts where public utility uses are not permitted. Specifically, the installation and use of the overhead lines would pass through Residence A-2, Residence B, Business A, Business B, Agricultural and Industrial A Zoning Districts in Agawam and Business A, Industrial and Recreational Zoning Districts in West Springfield, each of which prohibits public utility uses.⁴ In addition, since public utility uses are not permitted in the above districts, it is unclear from the Zoning Ordinances whether zoning requirements for those districts would be applicable to the Project, such as those related to height limitations, removal of topsoil and site plan approval. Accordingly, the Project may not be in compliance with other provisions, in addition to the use regulations, of the Zoning Ordinances.
5. If applicable, it would not be feasible for the Project to comply with those zoning provisions, as more fully described below.
6. Because the Project is necessary for local transmission reliability, any delay in construction of the Project would negatively impact system reliability in the local Springfield area, and the Company requests both individual zoning exemptions and comprehensive zoning exemptions for the Project from the Department pursuant to G.L. c. 40A, § 3.

⁴ The Project will be located in the Residence A-2, Residence B, Business A, Business B and Industrial A Zoning Districts in Agawam regardless of which route variation for the landfill segment is selected. If the landfill re-route variation is chosen, it will also pass through an Agricultural Zoning District in Agawam. The West Springfield zoning districts are unaffected by the route variation for the landfill segment.

7. On this date, WMECO has also filed a petition for approval of the Agawam - West Springfield Circuit Separation Project by the Department pursuant to G.L. c. 164, § 72 (the "Section 72 Petition"). The Section 72 Petition demonstrates that the Project meets the standards of the Department under G.L. c. 164, § 72, because the Project is needed, will serve the public convenience, and is consistent with the public interest by maintaining and improving the reliability of the Springfield area transmission system.
8. In evaluating petitions filed under G.L. c. 164, § 72, the Department examines: (1) the need for, or public benefits of, the present or proposed use (Boston Edison Company d/b/a NSTAR Electric, 14 DOMSB 233, at 395 (2005) ("NSTAR Electric 2005"); Massachusetts Electric Company and New England Power Company, D.T.E. 99-70, at 6-7, 17-18 (2000) ("MECO/NEPCO 2000"); Massachusetts Electric Company, D.P.U. 93-29/30, at 10-14, 22-23 (1995); New England Power Company, D.P.U. 92-278/279/280, at 19 (1994) ("NEPCO 1994"); (2) the environmental impacts or any other impacts of the present or proposed use (see NSTAR Electric 2005, at 395-405; MECO/NEPCO 2000, at 20-22; NEPCO 1994, at 20-23); and (3) the present or proposed use and any alternatives identified (see NSTAR Electric 2005, at 406; MECO/NEPCO 2000, at 18-20; NEPCO 1994, at 19). The Department then balances the interests of the general public against the local interest and determines whether the transmission line is necessary for the proposed purpose, will serve the public convenience and is consistent with the public interest.
9. The Section 72 Petition provides an extensive description of the Project, including the proposed transmission lines with associated maps. The Section 72 Petition also contains an explanation of the purpose of, and the need for, the Project and a discussion of the public interest that would be served by the construction and operation of the Project.

Furthermore, the Section 72 Petition sets forth a comprehensive evaluation of alternatives to the proposed Project and demonstrates the superiority of the selected alternative from a reliability, cost and environmental impact perspective. An analysis of the environmental and other impacts of the Project is also provided in detail in the Section 72 Petition. The Section 72 Petition establishes that the Project is necessary to maintain a reliable supply of electricity for the Commonwealth, will serve the public convenience and is consistent with the public interest.

10. Inasmuch as the standards applicable to approval pursuant to G.L. c. 164, § 72 are essentially the same as the standards that apply to requests for zoning relief pursuant to G.L. c. 40A, § 3, the Section 72 Petition provides a comprehensive factual foundation for the zoning relief sought by the Company.
11. The Company requests as part of its Petition here that its request for zoning relief pursuant to G.L. c. 40A, §3 be considered concurrently with its Section 72 Petition in a consolidated proceeding. G.L. c. 25, § 4; G.L. c. 164, § 69H; NSTAR Electric 2005, at 248; Cambridge Electric Light Company, 12 DOMSB 305, at 313 (2001).

II. STANDARD OF REVIEW

12. G.L. c. 40A, § 3 provides, in relevant part, that:

Land or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or bylaw if, upon petition of the corporation, the [Department] shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.
13. The standard of review with respect to zoning exemptions is well established and was recently reiterated in NSTAR Electric Company, D.P.U. 07-60/06-61, at 2-6 (2008)

(“NSTAR Carver 2008”) and NSTAR Electric Company, D.P.U. 07-9/07-10, at 3-7 (2007) (“NSTAR Plympton 2007”). A petitioner seeking an exemption from the operation of particular provisions of a zoning ordinance or bylaw under G.L. c. 40A, §3 must meet three criteria. First, the petitioner must qualify as a public service corporation. Save the Bay, Inc. v. Department of Public Utilities, 366 Mass. 667 (1975) (“Save the Bay”). Second, the petitioner must establish that it requires such exemption. NSTAR Electric 2005, at 392; Commonwealth Electric Company, D.T.E. 03-7, at 3 (2003) (“Commonwealth Electric 2003”); Boston Gas Company, D.T.E. 00-24, at 3 (2001) (“Boston Gas 2001”). Finally, the petitioner must demonstrate that its present or proposed use of the land or structures is reasonably necessary for the public convenience or welfare. NSTAR Electric 2005, at 392; Commonwealth Electric 2003, at 3; Massachusetts Electric Company, D.T.E. 01-77, at 4 (2002) (“MECO 2002”); Tennessee Gas Pipeline Company, D.T.E. 01-57, at 3-4 (2002) (“Tennessee Gas 2002”).

III. WMECO IS QUALIFIED AS A PUBLIC SERVICE CORPORATION

14. In determining whether a petitioner qualifies as a “public service corporation” for the purposes of G.L. c. 40A, §3, the Supreme Judicial Court (the “SJC”) has held that:

among the pertinent considerations are whether the corporation is organized pursuant to an appropriate franchise from the State to provide for a necessity or convenience to the general public which could not be furnished through the ordinary channels of private business; whether the corporation is subject to the requisite degree of governmental control and regulation; and the nature of the public benefit to be derived from the service provided.

Save the Bay, 366 Mass. at 680. See also, Commonwealth Electric 2003, at 4; Boston Gas 2001, at 3-4; Berkshire Power Development, Inc., D.P.U. 96-104, at 26-36

(1997) (“Berkshire Power 1997”).

15. WMECO is a Massachusetts public service corporation authorized to transmit and distribute electricity. Massachusetts Electric Company, D.T.E. 03-130 (2004); Massachusetts Electric Company, D.P.U. 92-232, at 17 (1994); Western Massachusetts Electric Company, D.P.U./D.T.E. 99-35 (1999) (“WMECO 1999”).

IV. **THE PROJECT REQUIRES ZONING EXEMPTIONS**

A. **Standard of Review**

16. In determining whether an exemption from the operation of a particular provision of a zoning bylaw is required for purposes of G.L. c. 40A, § 3, the Department looks to whether the exemption is necessary to allow construction or operation of the petitioner’s project as proposed. See NSTAR Carver 2008, at 4; NSTAR Plympton 2007, at 5; NSTAR Electric 2005, at 393; Commonwealth Electric 2003, at 4; MECO 2002, at 4-5; Tennessee Gas 2002, at 5; WMECO 1999, at 4, 6-8 (1999); Tennessee Gas Company, D.P.U. 92-261, at 20-21 (1993). The petitioner needs to identify the individual zoning bylaws or ordinances applicable to the project and then needs to establish on the record that exemption from each of those provisions is required:

The Company is both in a better position to identify its needs, and has the responsibility to fully plead its own case. The Department fully expects that, henceforth, all public service corporations seeking exemptions under c. 40A, § 3 will identify fully and in a timely manner all exemptions that are necessary for the corporation to proceed with its proposed activities, so that the Department is provided ample opportunity to investigate the need for the requested exemptions.

New York Cellular Geographic Service Area, Inc., D.P.U. 94-44, at 18 (1995); see Commonwealth Electric 2003, at 4. However, the petitioner is not required to establish

that the zoning provisions “on their face” would prohibit the construction and operation of the proposed facility, rather it is sufficient to demonstrate “some likelihood that [the] provisions would result in one or more of the following: an adverse outcome, a burdensome requirement, or an unnecessary delay as part of zoning review.” NSTAR Carver 2008, at 49; See also, Braintree Electric Light Department, EFSB 07-1/D.T.E./D.P.U. 07-5, at 92, 101 (2008) (finding that the requested exemptions were warranted, the EFSB determined that, “the identified zoning bylaw provisions all raise uncertainties for project implementation, although these cannot be fully known in advance and may differ as to the degree or the significance of the uncertainty they pose.”).

17. In paragraphs 18-35 below, the Company demonstrates that multiple exemptions from operation of specific provisions of the Zoning Ordinances are required in order to construct, operate and use the Project because there is a likelihood that the provisions would result in an adverse outcome, a burdensome requirement, or an unnecessary delay as part of the zoning review. Furthermore, in paragraphs 47-54 below, the Company demonstrates that it is appropriate for the Department to grant comprehensive exemptions from the operation of the Zoning Ordinances with respect to the construction, operation and use of the Project.

B. The Project

1. Overhead Transmission Lines in Agawam

Use Regulation

18. The portion of the Project in Agawam includes the reconstruction, operation and use of a 115-kV overhead transmission line (two circuits) and related structures located in the

following zoning districts established by the Agawam Zoning Ordinance: Residence A-2, Residence B, Business A, Business B, Agricultural and Industrial A.

19. Under the Agawam Zoning Ordinance, public utility uses are not permitted in any of those districts. Therefore, the reconstruction, operation and use of 115-kV transmission lines as part of the Project in lots that are located in those districts are not permitted under the Agawam Zoning Ordinance. Furthermore, there is no express grant in the Agawam Zoning Ordinance for the Zoning Board of Appeals to grant use variances. Therefore, the following exemptions from the operation of the Agawam Zoning Ordinance are required in order to construct, operate and use the Project: (1) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines in lots located in a Residence A-2 District, an exemption from those provisions of Article III, §180-23 of the Agawam Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use; (2) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines and related structures in lots located in a Residence B District, an exemption from those provisions of Article VI, § 180-31 of the Agawam Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use; (3) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines and related structures in lots located in a Business A District, an exemption from those provisions of Article VIII, § 180-44 of the Agawam Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use; (4) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines and related

structures in lots located in the Business B District, an exemption from those provisions of Article IX, § 180-48 of the Agawam Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use; (5) with respect to that portion of the Project that involves the installation, operation and use of overhead transmission lines and related structures in lots located in the Agricultural District, an exemption from those provisions of Article VII, § 180-37 of the Agawam Zoning By-Law which do not allow and do prohibit such installation, operation and use; and (6) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines in lots located in an Industrial A District, an exemption from those provisions of Article X, § 180-55 of the Agawam Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use.

Height Regulation

20. The Agawam Zoning Ordinance sets forth the height regulations applicable to lots and uses within the Zoning Districts listed above. Since public utility uses are not permitted in those Districts, there is no stipulated maximum building height for public utility uses under the Agawam Zoning Ordinance. Therefore, it is unclear whether the maximum building height provisions of the respective Zoning Districts are applicable to the proposed overhead transmission lines and associated structures. The height of the support structures for the overhead transmission lines exceeds the stated height regulations for all of the relevant Zoning Districts. In all of these instances, if the stated provisions are applicable to the proposed overhead lines and associated structures, then an exemption would be required from the operation of the maximum building height provisions of the Agawam Zoning Ordinance.

Floodplain Zone, Article XII, § 180-67

21. The Agawam Zoning Ordinance, Article XII, § 180-67, establishes a Floodplain Zone based on Flood Insurance Rate Maps. Generally, the land affected is adjacent to the Westfield River, the Connecticut River and its tributaries, and Still Brook which lies at or below the elevation of the one hundred year flood elevation. Utility lines and facilities are permitted in the Floodplain Zone by special permit from the Board of Appeals if determined to be consistent with the purpose of the Zone. Portions of the overhead transmission lines and related structures in Agawam are located in the Floodplain Zone. For that reason, an exemption from the operation of the Article XII, § 180-67 of the Agawam Zoning Ordinance is required in order to construct, operate and use the overhead transmission lines and related structures in the Floodplain Zone.

Supplementary Regulations, Removal of Topsoil, Article I, § 180-8 G.

22. The Agawam Zoning By-Law, Article I, § 180-8 G, contains supplemental regulations which prohibit the removal of topsoil, sand or gravel except as surplus material resulting from the construction of a building or installation of a structure for which a permit has been issued without first obtaining a permit from the Board of Appeals. However, WMECO's need to remove topsoil and replace it with gravel for access roads, temporary work areas (sometimes referred to as field construction or contractor yards) and with crushed stone pads at intersections with public roads (for anti-tracking of soil/mud purposes), necessitate an exemption from the provisions of Article I, § 180-8 G regarding topsoil, sand and gravel removal. Therefore, an exemption is required from those provisions of Article I, § 180-8 G.

Site Plan Approval, Article I, § 180-13

23. The Agawam Zoning By-Law, Article I, § 180-13, requires Site Plan Approval by the Planning Board for any use of a new or renovated structure. If the overhead lines and related structures are considered structures which trigger this requirement, then WMECO will need an exemption from those provisions of Article I, § 180-13.

2. Agawam Substation

Use Regulations, Article IX, § 180-48

24. The Agawam Substation is located within a Business B Zoning District. Under Article IX, § 180-48 of the Agawam Zoning Ordinance, public utility uses are not permitted in Business B Districts. Other than the termination of the modified transmission lines and new overhead transmission structures, no modifications are planned for the Agawam substation. Nevertheless, the construction, operation and use of new structures in the Agawam Substation are not permitted under the Agawam Zoning Ordinance. For that reason, with respect to the construction, operation and use of new overhead transmission structures in the Agawam Substation, an exemption may be required from those provisions of Article IX that prohibit such construction, operation and use.

Height Regulations, Article IX, § 180-49

25. Section 180-49 of the Agawam Zoning Ordinance sets forth the height regulations applicable to lots and uses within the Business B Districts, which is 45 feet. As public utility uses are not permitted in that District, there is no stipulated maximum height for public utility uses under § 180-49 of the Agawam Zoning Ordinance. Therefore, it is unclear whether the maximum height provision of § 180-49 of the Agawam Zoning Ordinance would be applicable to new overhead transmission structures in Agawam Substation. The height of the new structures proposed for the Agawam Substation will

exceed the height limitations specified for Business B Districts. If these provisions are applicable to new structures in the Agawam Substation, the height limitations specified would be exceeded. Therefore, in that instance, an exemption may be required from the operation of the maximum height provisions of § 180-49 of the Agawam Zoning Ordinance.

Vehicle Parking and Loading, Article IX, § 180-50

26. According to § 180-50 of the Agawam Zoning Ordinance, space shall be provided for vehicle parking and for loading and unloading entirely off the traveled way and loading and unloading are prohibited at the front of any building in Business B Zoning Districts. The Agawam Substation would not have parking or loading and unloading spaces. If it is determined that the Agawam Substation with the addition of new overhead transmission structures would not be in compliance with the vehicle parking and unloading provisions of § 180-50 of the Agawam Zoning Ordinance, then an exemption would be required from the operation of the vehicle parking and loading provisions of that section.

Supplementary Regulations, Removal of Topsoil, Article I, § 180-8 G.

27. The Agawam Zoning By-Law, Article I, § 180-8 G, contains supplemental regulations which prohibit the removal of topsoil, sand or gravel, except as surplus material resulting from the construction of a building or installation of a structure for which a permit has been issued, without first obtaining a permit from the Board of Appeals. Depending on the soil conditions encountered, WMECO may need to remove soil and replace it in connection with the placement of new overhead transmission structures in the substation. This may necessitate an exemption from the provisions of Article I, § 180-8 G regarding topsoil, sand and gravel removal.

Site Plan Approval, Article I, § 180-13

28. The Agawam Zoning Ordinance, Article I, § 180-13, requires Site Plan Approval by the Planning Board for any use of a new or renovated structure. The new overhead transmission structures added to the Agawam Substation may trigger the site plan approval requirement. Therefore, WMECO may need an exemption from the provisions of Article I, § 180-13.

3. Overhead Transmission Lines in West Springfield

Use Regulation

29. The portion of the Project in West Springfield includes the reconstruction, operation and use of 115-kV transmission lines and related structures located in the following zoning districts established by the West Springfield Zoning Ordinance: Business A, Industrial and Recreational.
30. Under the West Springfield Zoning Ordinance, public utility uses are not permitted in any of those Districts. Therefore, the reconstruction, operation and use of 115-kV transmission lines and related structures as part of the Project in lots that are located in those Districts are not permitted under the West Springfield Zoning Ordinance. Although the West Springfield Zoning Board of Appeals does have the authority to grant use variances pursuant to Section XV, 15.9 of the West Springfield Zoning Ordinance, obtaining a use variance can create long delays, and use variances can be difficult to uphold if challenged in court. Therefore, the following exemptions from the operation of the West Springfield Zoning Ordinance are required in order to construct, operate and use the Project: (1) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines in lots located in the Business A District, an exemption from those provisions of Section V, 5.32 – Table 5-2 of the West

Springfield Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use; (2) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines in lots located in an Industrial District, an exemption from those provisions of Section V, 5.34 - Table 5-3 of the West Springfield Zoning Ordinance which do not allow and do prohibit such reconstruction, operation and use; and (3) with respect to that portion of the Project that involves the reconstruction, operation and use of 115-kV overhead transmission lines in lots located in a Recreational District, an exemption from those provisions of Section V, 5.35 - Table 5-4, which do not allow and do prohibit such reconstruction, operation and use.

Height Regulation, Section VI, Table 6-2

31. The West Springfield Zoning Ordinance Section VI, Table 6-2 sets forth the height regulations applicable to lots and uses within the Zoning Districts listed above. Since public utility uses are not permitted in the above-named Zoning Districts, there is no stipulated maximum building height for public utility uses under the provisions of the West Springfield Zoning Ordinance. Therefore, it is unclear whether the maximum building height provisions for the respective Zoning Districts are applicable to the proposed overhead transmission lines and associated structures. The height limitations in the respective Zoning Districts range from 40 to 60 feet. In each of these instances, if the provisions are applicable to the upgraded overhead lines and associated structures, and if it is determined that the upgraded overhead lines and associated structures would not be in compliance with the maximum building height requirements set forth in the West Springfield Zoning Ordinance, then an exemption would be required from the operation of the maximum building height provisions of the West Springfield Zoning Ordinance.

Site Plan Review, Section XIII, 13.21

32. Pursuant to Section XIII, 13.21 of the West Springfield Zoning Ordinance, no building permit shall be issued for the construction, exterior alteration or change of use of any commercial structure unless a site plan therefore has been endorsed by the West Springfield Planning Board. If the installation of overhead transmission lines and associated structures as part of the Project require a building permit and such lines and structures are considered commercial structures, then Site Plan review and endorsement by the Planning Board would be required under Section XIII of the West Springfield Zoning Ordinance. If that is the case, an exemption would be required from the operation of Section XIII of the West Springfield Zoning Ordinance.

4. West Springfield Substation

Use Regulations, Section V, 5.34 – Table 5-3

33. As part of its investigation of re-routing the proposed lines around the Bondi's Island Landfill, WMECO is in the process of determining what, if any, termination structures will need to be replaced in the West Springfield Substation. Termination of the modified transmission lines may require modification to, or replacement of, existing termination structures at the West Springfield Substation. Other than new overhead transmission structures, no other work or expansion is proposed at the West Springfield Substation. The substation is located in the Industrial Zoning District, and under Section V, 5.34 – Table 5-3 of the West Springfield Zoning Ordinance public utility uses are not allowed. For that reason, with respect to the construction, operation and use of any new structures in the West Springfield Substation an exemption may be required from those provisions of Section V, 5.34 – Table 5-3 of the West Springfield Zoning Ordinance.

Height Regulation, Section VI, Table 6-2

34. Section VI, Table 6-2 of the West Springfield Zoning Ordinance sets forth the height regulations applicable to lots and uses within the Industrial Zoning District, which is 60 feet. As public utility uses are not permitted in that District, there is no stipulated maximum height for public utility uses under Section VI, Table 6-2 of the West Springfield Zoning Ordinance. Therefore, it is unclear whether the maximum height provision of the West Springfield Zoning Ordinance is applicable to new structures in the West Springfield Substation. The new structures proposed for the West Springfield Substation would exceed the height limitation specified for Industrial Districts. If this provision is applicable to structures in the upgraded West Springfield Substation, the height limitation specified would be exceeded. Therefore, in that instance, an exemption may be required from the operation of the maximum height provision of Section VI, Table 6-2 of the West Springfield Zoning Ordinance.

Site Plan Review, Section XIII, 13.21

35. Pursuant to Section XIII, 13.21 of the West Springfield Zoning Ordinance, no building permit shall be issued for the construction, exterior alteration or change of use of any commercial structure unless a site plan therefore has been endorsed by the West Springfield Planning Board. If the installation of new structures at the West Springfield Substation as part of the Project requires a building permit and any such structures are considered commercial structures, then Site Plan review and endorsement by the Planning Board would be required under Section XIII of the West Springfield Zoning Ordinance. If that is the case, an exemption would be required from the operation of Section XIII of the West Springfield Zoning Ordinance.

C. Zoning Exemptions are Required

36. As discussed in paragraphs 18 to 35 above, the Project will involve the installation and use of utility facilities in a number of zoning districts where public utility uses are not permitted. Under the Agawam Zoning Ordinance, there is no express provision under which the Zoning Board of Appeals can grant use variances. Furthermore, there is no legal right to a variance, and variances are a disfavored form of zoning relief. In this situation, it is doubtful that a use variance can be granted, and even if granted, it is unlikely that a use variance would be upheld if appealed to a court.
37. Additionally, since public utility uses are not permitted in the zoning districts in which the proposed facilities would be located in both Agawam and West Springfield, it is unclear from the Zoning Ordinances whether certain other zoning requirements, that would apply to permitted uses, would be applicable to the Project, such as, but not limited to, those related to height limitation, parking and loading and soil removal. Accordingly, the Project may not be in compliance with such other provisions, in addition to the use regulations, of the relevant Zoning Ordinances.
38. As discussed in paragraphs 21, 23, 28, 32 and 35 above, the Project may require a special permit and site plan reviews. Such reviews and permits are discretionary and can result in burdensome or restrictive conditions placed on a proposed use. This is of particular concern since the Project facilities must be constructed in accordance with established utility standards for safety and reliability which may be outside of the scope and expertise of local zoning officials. The Department has determined that special permits and site plan reviews are sources of uncertainty and delay in the local zoning process. NSTAR Plympton 2007, at 12 (“The Department notes that here, as in past zoning exemption

reviews, site plan review generally entails discretionary considerations without precise or prescriptive standards; as such, the extent and outcome of review are uncertain.”); NSTAR Carver 2008, at 48 (the Department listed “the potential delay associated with obtaining special permits and/or site plan reviews” among the principal sources of uncertainty for project implementation.)

V. THE PROJECT IS REASONABLY NECESSARY FOR THE PUBLIC CONVENIENCE OR WELFARE

39. In determining whether a proposed project is reasonably necessary for the public convenience or welfare, the Department balances the interests of the general public against the local interest. Save the Bay, 366 Mass. at 680; Town of Truro v. Department of Public Utilities, 365 Mass. 407 (1974); NSTAR Carver 2008, at 4; NSTAR Plympton 2007, at 5. Specifically, the Department undertakes “a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [an] examination of the local and individual interests which might be affected.” New York Central Railroad v. Department of Public Utilities, 347 Mass. 586, 592 (1964) (“New York Central Railroad”). When reviewing a petition for zoning exemptions under G.L. c. 40A § 3, the Department considers the public effects of the requested exemption in the state as a whole and upon the territory served by the petitioner. Save the Bay, 366 Mass. at 685; New York Central Railroad, at 592; NSTAR Carver 2008, at 5; NSTAR Plympton 2007, at 6 ; Commonwealth Electric 2003, at 5.
40. With respect to the project site chosen by a petitioner, a petitioner is not required to demonstrate that its preferred site is the best possible alternative, nor must the Department consider and reject every possible alternative site presented. NSTAR Carver 2008, at 5; NSTAR Plympton 2007, at 6; Commonwealth Electric 2003, at 5. Rather, the

availability of alternative sites, the efforts necessary to secure them, and the relative advantages and disadvantages of those sites are matters of fact bearing solely upon the main issue of whether the preferred site is reasonably necessary for the convenience or welfare of the public. Martarano v. Department of Public Utilities, 401 Mass. 257, 265 (1987); New York Central Railroad, at 591; NSTAR Carver 2008, at 5; NSTAR Plympton 2007, at 6.

41. Therefore, when making a determination as to whether a petitioner's proposed project is reasonably necessary for the public convenience or welfare, the Department examines (1) the present or proposed use and any alternatives or alternative sites identified; (2) the need for, or public benefits of, the present or proposed use; and (3) the environmental impacts or any other impacts of the present or proposed use. The Department then balances the interests of the general public against the local interest, and determines whether the present or proposed use of the land or structures is reasonably necessary for the convenience or welfare of the public. NSTAR Carver 2008, at 5; NSTAR Plympton 2007, at 6; Commonwealth Electric 2003, at 5; Boston Gas 2001, at 4-6; Medco 2002, D.T.E 01 77, at 5-6; Tennessee Gas 2002, at 5-6; Tennessee Gas Company, D.T.E. 98-33, at 4-5 (1998).
42. As shown above, the Zoning Ordinances do not allow the construction and operation of the Project as a permitted use. Moreover, the construction and operation of the Project may be inconsistent with several additional provisions of the Zoning Ordinances. Since the Project is needed in the immediate time frame in order to maintain reliable transmission service to the greater Springfield area, WMECO is seeking zoning relief

from the Department for the construction of the Project to ensure a reliable supply of electricity to its customers.

VI. THE PROJECT IS NEEDED

43. As shown in the Section 72 Petition, the Project is necessary to alleviate reliability problems in the Springfield area transmission system and to bring the system into compliance with WMECO's reliability standards, consistent with applicable national and regional reliability standards, which ensure that WMECO provides a secure and reliable supply of electricity to its customers and operates a reliable transmission system in the Springfield area.
44. The need analysis for the proposed Project is presented at length in Section 4 of the Section 72 Petition. As demonstrated there, the Project will meet the identified need in providing a reliable energy supply for the Springfield area.

VII. ALTERNATIVES CONSIDERED

45. WMECO carefully assessed three potential alternative electrical solutions, each of which would provide greater reliability than the existing conditions between the Agawam Substation and the West Springfield Substation. The alternatives considered by the Company are described and discussed in Section 5.0 of the Section 72 Petition. As demonstrated in the Section 72 Petition, the proposed Project is superior to the alternative approaches in terms of costs, impacts, ability to meet need and reliability of supply and is the best means for WMECO to meet the identified need, at least cost and with the least environmental impact.

VIII. IMPACTS OF THE PROPOSED PROJECT

46. Similarly, WMECO conducted detailed analyses of the environmental impacts of its proposed Project. Specifically, the Company assessed potential environmental impacts associated with the construction and operation of the Project on the following topics: land use, visual, rare species, wetlands, traffic, air quality, historical and archeological resources, hazardous materials, noise, and electric and magnetic fields. As demonstrated in the Section 72 Petition, WMECO has appropriately minimized all environmental impacts associated with the Project consistent with considerations of cost.

IX. COMPREHENSIVE EXEMPTION

47. A petition for a comprehensive exemption from the operation of a zoning by-law or ordinance is appropriately granted by the Department in circumstances where as here, “the issuance of a comprehensive exemption could avoid substantial public harm by serving to prevent delay in the construction and operation of the proposed use”. NSTAR Electric 2005, at 407; see also NSTAR Carver 2008, at 52 (granting a comprehensive exemption to avoid possible delay in improvements to avoid uneconomic wholesale generation costs associated with inability to import sufficient power into the region); NSTAR Plympton 2007, at 37 (granting comprehensive exemption found to be in public interest because project would add necessary transmission capacity consistent with applicable reliability criteria); Princeton, at 37; New England Power Company/Massachusetts Electric Company, D.T.E. 04-66/04-81 at 31 (2005); New England Power Company, D.T.E. 04-4 at 34 (2004); USGen New England, D.T.E. 03-83 at 34 (2004); Commonwealth Electric 2003, at 33-34; Tennessee Gas 2002, at 10; MECO 2002, at 30-31 (granting comprehensive exemption where company demonstrated a time-sensitive need for the proposed project). As demonstrated in this Petition, a

comprehensive zoning exemption is appropriate because the need for the Agawam-West Springfield Circuit Separation Project is immediate. NSTAR Electric 2005, at 407.

48. As illustrated in this Petition, the necessary zoning relief would be complex and extensive, requiring special permits, site plan approvals and variances. To complicate matters further, as noted in paragraph 19, there is uncertainty as to whether the Agawam Zoning Ordinance authorizes use variances. As described in paragraphs 18-35 above, it is unclear in no less than eleven instances whether or how a particular provision of the Zoning Ordinance applies to the construction, operation and/or use of the Project. With respect to each such provision, the Company would be required to request from the appropriate zoning officer in the respective town a determination as to whether and/or how such provision applied to the construction, operation and/or use of the Project. The determination of the zoning officer in each instance could be appealed by the Company, or any person, if aggrieved, to the Board of Appeals pursuant to the Zoning Ordinances. Having to obtain such determinations and possibly bringing or defending such appeals would delay the construction of the Project by many months, if not longer.
49. Even if exemptions from the operation of specific provisions of the Agawam and West Springfield Zoning Ordinances described in paragraphs 18-35 above are unambiguously required, it should be noted that the number of stated exemptions does not equal the number of applications for zoning relief that would have to be filed with local zoning authorities if zoning exemptions are not granted. Separate applications for zoning relief for the Project facilities would have to be filed for each affected lot, requiring a large number of individual applications. If the Company attempted to obtain local zoning relief, there would be a substantial likelihood of unacceptable delay in the schedule for

constructing the Project and placing it in service. Furthermore, it is likely that the requested zoning relief, if it could be granted, would not be granted uniformly under both of the applicable Zoning Ordinances.

50. Moreover, the process for obtaining the necessary variances and/or permits from the Boards of Appeals of Agawam and West Springfield would be burdensome for the municipalities involved and the Company, as well as lengthy and fraught with the potential for delay. Decisions of Zoning Boards of Appeals granting or denying requested variances or permits may be appealed to the Superior Court, the Land Court, or the Housing Court for Hamden County by a person aggrieved by the decision or by a municipal officer or board. If appeals were filed, WMECO's ability to commence the Project would be subject to the uncertainty and delays of litigation. Accordingly, it could take at least several months and likely a much lengthier period for WMECO to obtain the necessary variances and be able to rely upon them with the certainty that they could no longer be challenged. Any such appeal would virtually assure that the Project would not be constructed on schedule. Delays in the construction of the Project would result in corresponding delays in placing it in service, resulting in substantial public harm.
51. Furthermore, the design and exact location of the Project are not yet final, and a number of specific details with regard to the construction of the Project could change during the proceeding or after the Department acts on this Petition. Such changes may result from field conditions or as the result of concerns raised by local officials or residents that need to be addressed during the construction, as WMECO will be working closely with officials from West Springfield, Agawam and the City of Springfield (with respect to the potential route around the Bondi's Island Landfill) on the final design along

the route. Such changes may cause the Project, as so changed, to be in violation of use or other provisions of a Zoning Ordinance. With respect to such violations, further exemptions from the Department may be required to address these specific situations. Seeking zoning exemptions close to, or during construction, could delay the construction of the Project by several months, if not longer. Such delays in construction of the Project would result in delays in placing the Project in service and could cause substantial public harm.

52. This Petition and the exemptions referred to herein are based upon the Agawam Zoning Ordinance certified as of March 6, 2009 and the West Springfield Zoning Ordinance certified as of October 3, 2008. It is possible that the Zoning Ordinances will be amended after these dates but before completion of the construction of the Project. Such amendments could change the Zoning Ordinances such that the construction, operation and/or use of the Project may be in violation of provisions of the Zoning Ordinances not referred to in this Petition. With respect to such violations, zoning relief from the towns or further exemptions from the Department would be required. This would delay construction of the Project by many months, if not longer. Such delays in the construction of the Project would result in similar delays in the operation and use of the Project, which would cause substantial public harm.
53. The process of obtaining zoning relief from West Springfield and Agawam could be prolonged far longer than a review of the Project by the Department. The Project is needed in order to ensure that WMECO provides a secure and reliable supply of electricity to its customers and operates a reliable transmission system in the Springfield area. If the Company were required to pursue local zoning relief, the resolution of these

zoning issues (and any appeals therefrom) could substantially delay construction of the Project and jeopardize the completion of this Project on a timely basis.

54. For the reasons described in paragraphs 47-53 above, given the number of potentially required variances from the Zoning Ordinances, the uncertainty as to whether variances could, or would, be granted and appealed, and the need to commence construction of this Project without undue delay, it is appropriate for the Department to grant a comprehensive exemption from the operation of each of the Zoning Ordinances that would otherwise apply to the construction, operation and use of the Project.

X. ZONING RELIEF REQUIRED

55. A listing of all state and local permits required for the construction and operation of the Agawam – West Springfield Circuit Separation Project is provided as Appendix D.
56. A completed and executed copy of the Department’s Zoning Exemption Checklist is attached hereto as Appendix E.⁵

WHEREFORE, WMECO respectfully requests that, pursuant to the authority under G.L. c. 40A, § 3 and after due notice and a public hearing, the Department determine that the proposed Agawam - West Springfield Circuit Separation Project as described herein and in the Section 72 Petition is reasonably necessary for the convenience and welfare of the public, and that such lands, the uses to be made of them, and the structures to be built and maintained thereon by the Company shall be comprehensively exempted from the operation of the Zoning Ordinances of the Towns of Agawam and West Springfield, to the extent applicable thereto.

⁵ In conformance with the Department’s Zoning Exemption Checklist, the Company has referenced a copy of the ENF and the Secretary’s Certificate for the Project as Appendix F and attached a draft Notice as Appendix G (also included in an electronic version with this filing in MS Word format).

Respectfully submitted,

**WESTERN MASSACHUSETTS ELECTRIC
COMPANY**

By its attorneys,

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Dated: March 13, 2009

APPENDICES

- Appendix A Agawam Zoning Ordinance
- Appendix B West Springfield Zoning Ordinance
- Appendix C-1 United States Geological Survey map, entitled “Agawam - West Springfield Circuit Separation Project”
- Appendix C-2 Refer to the Section 72 Petition for cross-sections of the lines and photo simulations (Exhibit 3.1) and aerial photos (Exhibit 3.2) of the Project
- Appendix D List of permits required
- Appendix E Department’s Checklist for Zoning Exemption Petitions
- Appendix F Refer to the Section 72 Petition for the Environmental Notification Form filed December 30, 2008 (Appendix A) and the Secretary’s Certificate dated February 6, 2009 (Exhibit 3.4)
- Appendix G Draft hearing notice

Appendix A

Copies of the Agawam Zoning Ordinance are contained in a separate box accompanying this Petition.

Appendix B

Copies of the West Springfield Zoning Ordinance are contained in a separate box accompanying this Petition.

Appendix C-2

Refer to the Section 72 Petition for cross-sections of the lines and photo simulations (Exhibit 3.1) and aerial photos (Exhibit 3.2) of the Project

APPENDIX D

LIST OF POTENTIALLY REQUIRED PERMITS AND CONSULTATIONS

Regulatory Agency	Program & Permit	Jurisdiction
Federal		
U.S. Army Corps of Engineers (USACE)	Massachusetts Programmatic General Permit – Category II	Work in Waters of the U.S., including Wetlands; Navigable Waters
U.S. Fish & Wildlife Service (USFWS)	Federal Endangered Species Act Review (completed)	Federally-listed Rare Species habitats
National Marine Fisheries Service	Magnuson-Stevens Fishery and Conservation Management Act Review	Work in, under, or over Essential Fish Habitat
Federal Aviation Administration (FAA)	Notice of Construction	Structures that may affect air traffic
U.S. Environmental Protection Agency (EPA)	National Pollutant Discharge Elimination System (NPDES), General Permit for Storm Water Discharges and Construction Dewatering Activities	Land disturbance greater than one acre
Narragansett Tribal Historic Preservation Office	Executive Order 13175-- Consultation and Coordination With Indian Tribal Governments	All areas in Massachusetts with tribal lands, reserved water rights, and/or treaty hunting and fishing rights
Wampanoag Tribal Historic Preservation Office	Executive Order 13175-- Consultation and Coordination With Indian Tribal Governments	All areas in Massachusetts with tribal lands, reserved water rights, and/or treaty hunting and fishing rights
Stockbridge-Munsee Tribal Historic Preservation Office	Executive Order 13175-- Consultation and Coordination With Indian Tribal Governments	All areas in Massachusetts with tribal lands, reserved water rights, and/or treaty hunting and fishing rights
State		
Executive Office of Energy and Environmental Affairs (EOEEA MEPA)	Massachusetts Environmental Policy Act (MEPA) Review	Projects needing state permits and exceeding certain review thresholds
Massachusetts Department of Environmental Protection (MassDEP)	Section 401 of the Clean Water Act; Massachusetts Clean Water Act; Individual Water Quality Certification	Work in Waters of the U.S., including Wetlands
MassDEP	M.G.L. c.91 Waterways Program	License for overhead crossings of Westfield River
Natural Heritage and Endangered Species Program, Massachusetts Division of Fish & Wildlife (NHESP)	Massachusetts Endangered Species Act - Determination of Take or No-take; Conservation Permit (if needed)	State-listed Rare Species and Estimated/Priority Habitat
Massachusetts Historical Commission (MHC)	National Historic Preservation Act	Cultural Resources

Regulatory Agency	Program & Permit	Jurisdiction
Department of Public Utilities (DPU)	Petition for "Public Convenience/Public Interest and Necessity" approval of transmission line and, if needed, eminent domain authority (G.L. c. 164, Section 72). In addition, Petition for Zoning Exemption (G.L. 40A, Section 3)	All Inclusive
Massachusetts Highway Department (MHD)	Highway Access Permit	Highway Access
Local		
Agawam Conservation Commission/MassDEP	Order of Conditions	Massachusetts Wetlands/Rivers Protection Act and local wetlands bylaw for work in Resource Areas
W. Springfield Conservation Commission/MassDEP	Order of Conditions	Massachusetts Wetlands/Rivers Protection Act and local wetlands bylaw for work in Resource Areas

APPENDIX E

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY
CHECKLIST FOR FILING OF ZONING EXEMPTION PETITIONS**

The following checklist is intended to serve as guidance for persons filing petitions for exemption from a municipal zoning ordinance or bylaw pursuant to G.L. c. 40A, § 3, or pursuant to §6 of Chapter 665 of the Acts of 1956. Petitioners must complete all three parts of the form and submit a copy of the completed form with the petition at the time of filing.

PART 1: GENERAL INFORMATION

Petitioner name: **Western Massachusetts Electric Company**

Description of land or structures for which exemption is sought:

Agawam to West Springfield Circuit Separation Project

Municipality: **Agawam and West Springfield**

PART 2: CONTENTS OF FILING

The filing (petition and accompanying documentation) must contain, at a minimum, the following information:

A demonstration that the petitioner is a public service corporation that may seek a zoning exemption pursuant to G.L. c. 40A, § 3, with supporting documentation as necessary.

A list of the sections of the zoning ordinance or bylaw from which the petitioner seeks an exemption, together with a summary of each such section and an explanation of why exemption from that section is needed, with supporting documentation as necessary.

A description of the use of land or structures which are the subject of the exemption request, and an explanation of the purpose of the proposed use.

An explanation of the public benefits to be provided by the proposed use of land or structures, with a supporting analysis and a description of the methods used to develop this analysis.

A description of alternatives to the proposed use of land or structures, including the use of existing structures or facilities.

An analysis of the environmental or other impacts of the use of land or structures, during both construction and operation. This analysis could include, without limitation, impacts on land use at or near the site, on wetlands or water resources at or near the site, visual and noise considerations, traffic and access considerations, public safety considerations, air pollutant emissions, or the use of hazardous substances.

A list of all permits required for the proposed use of land or structures prior to construction, during construction and during operation.

NOTE: All information provided in the filing (including the petitioner's analysis of the need for each exemption sought) must be adopted by witnesses who will be able to testify and respond to questions at evidentiary hearings. The petitioner should be prepared to identify which witness will adopt which part of the filing no later than three weeks after the filing date.

Appendix F

Refer to the Section 72 Petition for the Environmental Notification Form filed December 30, 2008 (Appendix A) and the Secretary's Certificate dated February 6, 2009 (Exhibit 3.4)

Appendix G
DRAFT NOTICE

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

NOTICE OF PUBLIC HEARING

D.P.U. 09-__ / D.P.U. 09-__

Petition of Western Massachusetts Electric Company before the Department of Public Utilities pursuant to G.L. c. 164, §72 for Approval to Alter and Operate as Altered Existing Transmission Lines, and pursuant to G.L. c. 40A, §3, for Exemptions from the Zoning Ordinances of the Towns of Agawam and West Springfield.

On March 13 2009, Western Massachusetts Electric Company (“WMECO” or the “Company”), a subsidiary of Northeast Utilities, filed with the Department of Public Utilities (the “Department”): (1) a Petition for Approval to Alter and Operate as Altered Existing Transmission Lines Pursuant to G.L. c. 164, §72 (the “Section 72 Petition”) which was docketed as D.P.U. 09-__ and (2) a Petition for Exemption from the Zoning Ordinances of the Towns of Agawam and West Springfield (the “Zoning Exemption Petition”) which was docketed as D.P.U. 09-__. These Petitions are each in connection with the reconstruction and operation of a 115-kV double-circuit transmission line approximately 2.5 miles in length between WMECO’s existing Agawam Substation in Agawam and WMECO’s existing West Springfield Substation in West Springfield as two upgraded single-circuit lines (the “Agawam to West Springfield Circuit Separation Project” or the “Project”). Pursuant to an Order issued by the Chairman of the Department on _____, 2009, the two petitions have been consolidated for hearing with the consolidated docket numbers of D.P.U. 09-__ /D.P.U. 09-__.

Specifically WMECO proposes to: (i) re-construct two existing overhead 115-kV transmission circuits (1311 and 1412) now sharing a common line of double-circuit line structures along a 2.5-mile-long existing right-of-way (“ROW”) between the Agawam Substation and the West Springfield Substation; (ii) re-conductor circuits 1311 and 1412 with larger conductors capable of carrying additional electric power; (iii) relocate the re-conducted circuits on separate sets of single-circuit poles in the same ROW (with a possible variation away from the existing ROW for a 0.7-mile re-routing around a municipal landfill); and (iv) operate each such altered transmission line between the Agawam and West Springfield Substations.

Beginning at the Agawam Substation, the Project heads eastward for approximately 2.5 miles. It traverses a residential and commercial area, crosses Walnut Street, and then the Westfield River into West Springfield. It then crosses Memorial Avenue (State Route 147) and passes through the Eastern States Exposition Fairgrounds before once again crossing over the Westfield River. The line traverses agricultural lands before crossing

over the Westfield River a third and final time into West Springfield. It then traverses Bondi's Island Landfill before terminating at the West Springfield Substation.

The Department will conduct a public comment hearing on these WMECO transmission petitions on **[INSERT DATE]**, beginning at **[INSERT DATE]** at **[INSERT LOCATION]**. The purpose of the hearing is to receive public comment and respond to questions about WMECO's request for a determination 1) that the Agawam to West Springfield Circuit Separation Project is necessary for the purpose alleged, will serve the public convenience and is consistent with the public interest, and 2) that its use of certain real property for the construction and operation of the proposed Project shall be comprehensively exempted from the operation of the Zoning Ordinances of the Towns of Agawam and West Springfield, to the extent applicable thereto. The Department will accept comments on the Company's proposed transmission line at the public comment hearing. Any person who desires to submit written comments on the proposed project may do so by filing an original and five (5) copies of such comments no later than the close of business (5:00 p.m. on **[INSERT DATE]**) with: Mary L. Cottrell, Secretary, Department of Public Utilities, One South Station, 2nd Floor, Boston, MA 02110. A copy of such comments also must be filed with regulatory counsel for the Company, Catherine J. Keuthen, Meyer, Connolly, Simons & Keuthen LLP, 12 Post Office Square, Boston, MA 02109 and Edward L. Selgrade, Esq., 71 Leicester Road, Belmont, MA 02478.

Any person interested in intervening as a party or participating as a limited participant in this proceeding must file a written petition with Mary L. Cottrell, Secretary, Department of Public Utilities, at the address above on or before **[INSERT DATE]** and provide a copy to regulatory counsel for the Company, at the addresses above. A petition to intervene must satisfy the timing and substantive requirements of 220 C.M.R. §1.03(1). To be allowed, a petition filed pursuant to 220 C.M.R. §1.03(1) must satisfy the standing requirements of G.L. c. 30A §10.

Petitions to intervene also should be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@state.ma.us; or (2) on a 3.5" disk, IBM-compatible format. The text of the e-mail or the disk label must specify: (1) the docket number of the proceeding (D.P.U. 09-XX/ D.P.U. 09-XX); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title and telephone number of a person to contact in the event of questions about the filing.

Copies of WMECO's petitions are available for public inspection at the Department's Offices and at WMECO's Office at Technology Park, 1 Federal Street, Springfield, Massachusetts 01105. Copies are also available at the Town Clerks' Offices and in the main public library in the Towns of Agawam and West Springfield. Any person desiring further information regarding this Notice, including information regarding intervention or participating in the adjudicatory proceeding, may contact the Hearing Officer at the address or telephone number below.

[INSERT NAME]
Department of Public Utilities

One South Station
Boston, MA 02110
(617) 305-XXXX

By Order of the Department,

Mary L. Cottrell, Secretary