

HOUSE No. 1822

By Messrs. Feeney and Padden of Boston, petition of Michael Paul Feeney and John T. Padden for the acquisition by the city of Boston of the property of the Dedham and Hyde Park Gas and Electric Light Company located in said city and the lease thereof to the Boston Consolidated Gas Company. Power and Light.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT PROVIDING FOR THE ACQUISITION BY THE CITY OF BOSTON OF THE PROPERTY OF THE DEDHAM AND HYDE PARK GAS AND ELECTRIC LIGHT COMPANY LOCATED WITHIN SAID CITY AND THE LEASE THEREOF TO THE BOSTON CONSOLIDATED GAS COMPANY.

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

1 SECTION 1. The city, acting through its public
2 works department, and without other authority than
3 that contained in this act, may at any time before
4 January first, nineteen hundred and forty-three, pur-
5 chase or take by eminent domain the property of the
6 Dedham and Hyde Park Gas and Electric Light Com-
7 pany located within said city.

1 SECTION 2. The taking or takings by eminent do-
2 main authorized herein shall be made and damages
3 therefor determined and paid under and in accordance

4 with chapter seventy-nine of the General Laws. The
5 city, acting by its transit department, with the ap-
6 proval of the mayor, may make payment for damages
7 for all property taken under authority of this act out
8 of the proceeds of bonds issued by the city under the
9 provisions of section six, but if the amount of the pro-
10 ceeds available from such bonds is insufficient to pay
11 the full amount of such damages, the city shall never-
12 theless be liable for such damages, irrespective of any
13 legal limit of indebtedness previously provided by law.

1 SECTION 3. Before acquiring any property under
2 authority of this act, the public works department in
3 the name and on behalf of the city, shall execute a con-
4 tract in writing with the Boston Consolidated Gas
5 Light Company, hereinafter called the company, upon
6 such terms and conditions, not inconsistent with the
7 provisions of this act, as the public works department
8 and the board of directors of the company may agree
9 upon, for the use by the company of the property pro-
10 posed to be acquired, for such term as may be agreed
11 upon by said department and the company. The
12 company shall pay for the use of the premises a rental
13 at the rate of four and one half per cent per annum
14 upon the fair and reasonable value of the property as
15 agreed upon by the said department and the company,
16 or, in case of difference, as determined by the depart-
17 ment of public utilities. In case the company shall be
18 kept out of possession or deprived of the use of the
19 premises, or any part thereof, by any act on the part
20 of the city or of any person or corporation claiming an
21 adverse interest in said property, the rental or a just
22 and reasonable part thereof as agreed upon by the said
23 department and the company, or, in case of difference,

24 as determined by the department of public utilities,
25 shall be suspended or abated during the time the com-
26 pany is so kept out of possession or deprived of the use
27 of the property, or any part thereof. In case the city
28 shall, during the term of such contract, reimburse the
29 company for capital expenditures upon the property
30 as provided in section four, the amount of such reim-
31 bursement shall be added to the fair and reasonable
32 value of the property for the purpose of determining
33 the rental thereafter payable by the company for the
34 use of the property.

1 SECTION 4. Said contract for use shall require the
2 return of the property to the city at the termination of
3 said use in as good order and condition as at the begin-
4 ning, and shall provide that the company may from
5 time to time make such alterations, replacements,
6 additions and improvements in and to the property as
7 the company shall deem to be necessary or advisable
8 to put the property in good operating condition; pro-
9 vided, however, that no such alterations, replacements,
10 additions or improvements shall be made, except in
11 case of emergency, without the written consent of the
12 said public works department or a certificate from the
13 department of public utilities that the proposed work
14 is reasonably necessary or advisable to put the prop-
15 erty in good operating condition. In case of any such
16 alteration, replacement, addition or improvement,
17 the department of public utilities shall on application
18 of the company determine what proportion thereof,
19 if any, constitutes a proper charge against capital,
20 and the city shall thereupon pay the same to the com-
21 pany. If the city shall not make said payments when
22 due, the company shall be entitled to deduct the

23 amount thereof, with interest, from any rental subse-
24 quently payable to the city for the use of the property.

1 SECTION 5. There shall be made as of the date
2 when the use of the property by the company begins
3 and as of the date when the use terminates, a full and
4 complete inventory, description and valuation of the
5 property by a board of three persons, one appointed
6 by the said public works department, one by the com-
7 pany, and the third chosen by the two so appointed
8 or, in case of their failure to agree upon a third person,
9 by the governor. In case the valuation so made as of
10 the date when the use begins plus all capital improve-
11 ments and betterments for which the company has
12 been reimbursed by the city shall exceed the valuation
13 at the termination of the use, the company shall pay
14 over to the city an amount equal to such excess, and
15 in case such valuation as of the date when the use
16 begins plus all capital improvements and betterments
17 for which the company has been reimbursed by the
18 city, is less than the amount of the valuation at the
19 termination of the use, the city shall pay over to the
20 company an amount equal to such deficit.

1 SECTION 6. The treasurer of the city shall from
2 time to time, on request of the transit department, and
3 without further authorization than herein contained,
4 issue and sell at public or private sale the bonds of the
5 city, registered or with interest coupons attached, as
6 he may deem best, to an amount not exceeding the
7 cost of carrying out the provisions of this act. Such
8 bonds shall bear on their face the words, Hyde Park
9 Gas Loan, shall be for such terms not exceeding forty-

10 five years, as the mayor and treasurer of the city may
11 determine; and shall bear interest payable semi-
12 annually, at such rate as the treasurer shall determine.
13 The proceeds of such bonds, including any premium
14 realized from the sale thereof, shall be used to meet all
15 damages, cost and expenses incurred by the said pub-
16 lic works department or by the city in carrying out the
17 provisions of this act. The board of commissioners of
18 sinking funds of the city shall establish a sinking fund
19 for the payment of the bonds issued under this act.
20 The proceeds from any sale or sales of property taken,
21 or acquired by purchase or otherwise, under authority
22 of this act shall be used for the same purpose as the
23 rental of said property or shall be used for the pay-
24 ment of expenditures incurred for the acquisition of
25 said property, as the said public works department
26 may determine. All rentals, tolls, percentages or other
27 compensation received by the city under the provisions
28 of this act shall annually be used by the treasurer of the
29 city, first, to meet the requirements of any deficiency
30 in the said sinking fund; second, to meet the interest
31 on said bonds; and the surplus, if any, as a part of the
32 general revenue of the city. The city shall have, hold
33 and enjoy in its private or proprietary capacity, for its
34 own property, the property acquired by it under the
35 provisions of this act, and all rents, tolls, income and
36 profits from all contracts entered into by it for the
37 use of said property or any part thereof, and the same
38 shall never be taken by the commonwealth except on
39 payment of just compensation.

40 Debts incurred by the city for the purposes of this
41 act shall not be considered in determining the statutory
42 limit of indebtedness of the city.

1 SECTION 7. In respect to the use and operation
2 of the property, the company shall have all the powers
3 and privileges and be subject to all the duties, liabili-
4 ties, restrictions and provisions set forth in general and
5 special laws now or hereafter in force applicable to it.

1 SECTION 8. The contract for the use of the prop-
2 erty executed in accordance with the authority con-
3 ferred by this act shall not in any respect impair any
4 right which the commonwealth or the city of Boston
5 or any other licensee of the commonwealth may at any
6 time have to take the properties of the company. In
7 the event of such taking, the compensation to be paid
8 to the company shall not be enhanced by reason of such
9 contract, nor shall it be diminished because of the fact
10 that without it properties might be cut off.

1 SECTION 9. This act shall take effect upon its
2 acceptance by vote of the city council of the city of
3 Boston, approved by the mayor, and the filing of a
4 certificate evidencing such acceptance with the secre-
5 tary of the commonwealth.

