

SENATE No. 295

The Commonwealth of Massachusetts

SENATE, March 3, 1926.

The Committee on Power and Light to whom was referred the petition (with accompanying bill, House, No. 385) of Charles H. Hodkinson relative to permitting electric companies to acquire by eminent domain rights of way for transmission lines over and under locations of any railroad, electric railroad or street railway company, report the accompanying Bill (Senate, No. 295).

For the committee,

JOHN A. STODDART.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Six.

An Act relative to the Taking of Land by Electric Companies for Transmission Lines.

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 seventy-two of chapter one hundred and
2 sixty-four of the General Laws, as amended by
3 chapter four hundred and thirty-three of the acts
4 of nineteen hundred and twenty-four and chapter
5 ninety-eight of the acts of nineteen hundred and
6 twenty-five, is hereby further amended by insert-
7 ing in the fifty-sixth line after the words "or
8 within the location of any railroad, electric rail-
9 road or street railway company," the words "with-
10 out the consent of such company and on such
11 terms and conditions as it may impose;" , — so as
12 to read as follows:— *Section 72.* An electric
13 company may petition the department for au-
14 thority to construct and use or to continue to use
15 as constructed or with altered construction a line
16 for the transmission of electricity for distribution
17 in some definite area or for supplying electricity
18 to itself or to another electric company or to a
19 municipal lighting plant for distribution and sale,
20 or to a railroad, street railway or electric rail-
21 road, for the purpose of operating it, and shall
22 represent that such line will or does serve the pub-

23 lic convenience and is consistent with the public
24 interest. The company shall file with such peti-
25 tion a general description of such transmission
26 line and a map or plan showing the towns through
27 which the line will or does pass and its general
28 location. The company shall also furnish an esti-
29 mate showing in reasonable detail the cost of the
30 line and such additional maps and information as
31 the department requires. The department, after
32 notice and a public hearing in one or more of
33 the towns affected, may determine that said line
34 is necessary for the purpose alleged, and will
35 serve the public convenience and is consistent with
36 the public interest. If the company shall file with
37 the department a map or plan of the transmis-
38 sion line showing the towns through which it will
39 or does pass, the public ways, railroads, railways,
40 navigable streams, and tide waters in the town
41 named in said petition which it will cross, and
42 the extent to which it will be located upon pri-
43 vate land or upon, under or along public ways
44 and places, the department, after such notice as
45 it may direct, shall give a public hearing or hear-
46 ings in one or more of the towns through which
47 the line passes or is intended to pass and may
48 by order authorize the company to take by emi-
49 nent domain under chapter seventy-nine such
50 lands, or such rights of way or widenings thereof,
51 or other easements therein necessary for the con-
52 struction and use or continued use as constructed
53 or with altered construction of such line along
54 the route prescribed in the order of the depart-
55 ment. The department shall transmit a certified
56 copy of its order to the company and the clerk

57 of each such town. The company may at any
58 time before such hearing change or modify the
59 whole or a part of the route of said line, either
60 of its own motion or at the instance of the de-
61 partment or otherwise, and, in such case, shall
62 file with the department maps, plans and estimates
63 as aforesaid showing such changes. If the depart-
64 ment dismisses the petition at any stage in said
65 proceedings, no further action shall be taken
66 thereon, but the company may file a new peti-
67 tion after the expiration of a year from such
68 dismissal. When a taking under this section
69 is effected, the company may forthwith, except as
70 hereinafter provided, proceed to erect, maintain
71 and operate thereon said line. If the company
72 shall not enter upon and construct such line upon
73 the land so taken within one year thereafter, its
74 right under such taking shall cease and determine.
75 No lands or rights of way or other easements
76 therein shall be taken by eminent domain under
77 the provisions of this section in any public way,
78 public place, park or reservation; or within the
79 location of any railroad, electric railroad or street
80 railway company without the consent of such
81 company and on such terms and conditions as it
82 may impose; and no electricity shall be transmitted
83 over any land, right of way or other easement
84 taken by eminent domain as herein provided until
85 the electric company shall have acquired from the
86 board of aldermen or selectmen or from such other
87 authorities as may have jurisdiction all necessary
88 rights in the public ways or public places in the
89 town or towns, or in any park or reservation,
90 through which the line will or does pass.