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By Mr. Birmingham of Boston, petition of Leo M. Birmingham relative to supervision by the Department of Public Utilities of gas and electric companies. Power and Light.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Thirty-Two.

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An Act relative to the Regulation and Supervision of  
Gas and Electric Companies.

*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. Section forty-three of chapter one  
2 hundred and sixty-four of the General Laws, as  
3 amended by section two of chapter three hundred  
4 and seventy-nine of the acts of nineteen hundred  
5 and twenty-nine, is hereby repealed.

1 SECTION 2. Upon application of a gas or electric  
2 company, authorized by a vote of the majority in  
3 interest of all its stock qualified to vote for the elec-  
4 tion of directors, the department of public utilities  
5 may authorize the company to adjust its capital so  
6 that the par value of its capital stock will approxi-  
7 mate, as nearly as may be, the amount theretofore  
8 paid into its treasury on account of the issue of its  
9 capital stock; provided, however, that the capital

10 shall not be fixed at an amount in excess of the  
11 amount that has been expended by such company  
12 for its property used and useful in the transaction  
13 of its business, or in excess of the fair value thereof  
14 less any outstanding indebtedness.

1 SECTION 3. The adjustment of its capital stock  
2 under the provisions of this act by a gas or electric  
3 company shall effect an amendment of its charter and  
4 a contract between it and the commonwealth whereby  
5 in consideration of being authorized to adjust its  
6 capital under section one, the company agrees that  
7 the value of its property for rate-making purposes is,  
8 and accepts as the value of its property for rate-  
9 making purposes, the capital so adjusted, together  
10 with any additions made thereto, with the approval  
11 of the department.

1 SECTION 4. If a town which votes to establish a  
2 municipal lighting plant fails, within one hundred  
3 and fifty days from the passage of the final vote  
4 required by section thirty-five or thirty-six, to agree,  
5 as to price or as to the property to be included in the  
6 purchase, with any person or any lighting company  
7 which has adjusted its capital under the provisions of  
8 section two hereof or any municipality engaged at  
9 the time of the first vote required by said section  
10 thirty-five or thirty-six in generating or distributing  
11 gas or electricity for sale for lighting purposes in such  
12 town and electing to sell, either such town or such  
13 person or municipality may apply to the department  
14 within thirty days after the expiration of said one  
15 hundred and fifty days for a determination as to what  
16 property ought in the public interest to be included in

17 the purchase, and what price should be paid, having  
18 in view the cost of the property less a reasonable  
19 allowance for depreciation and obsolescence, and  
20 thereupon the department, after notice to the parties,  
21 shall give a hearing thereon. Such price may include  
22 damages, if any, which the department finds would  
23 be caused by the severance of the property proposed  
24 to be included in the purchase from other property  
25 of the owner. If any such property is subject to any  
26 mortgages, liens or other encumbrances, the depart-  
27 ment in making its determination shall provide for  
28 the deduction or withholding from the purchase price,  
29 pending discharge, of such sum or sums as it deems  
30 proper.

31 If within thirty days after such determination  
32 shall have been made by the department, the owner  
33 shall notify the town of its acceptance of the deter-  
34 mination as made by the department, and within a  
35 further period of thirty days shall tender a good and  
36 sufficient deed of conveyance to the city or town  
37 clerk of property required by the department to be  
38 purchased, and shall then place said deed in escrow,  
39 the town shall have sixty days in which to accept or  
40 reject said tender, and if it accepts shall have a further  
41 period of sixty days in which to pay to the owner  
42 the price determined as hereinbefore provided. Such  
43 acceptance or rejection in case of a city shall be by  
44 vote of its city council, or its commissioners if its  
45 government consists of a commission, and in case of  
46 a town shall be by vote at a town meeting. A rejec-  
47 tion of the tender shall operate as a rescission of all  
48 votes theretofore passed for the establishment of a  
49 municipal lighting plant.

50 Should the owner not file such acceptance and

51 tender within the time so limited, the town may  
52 proceed to construct or otherwise acquire a municipal  
53 plant without further attempt to acquire the plant  
54 of such owner or any part thereof; provided, how-  
55 ever, that in case of a city such action is authorized  
56 by vote of its city council, or of its commissioners if  
57 its government consists of a commission, and that in  
58 case of a town such action is authorized by vote at a  
59 town meeting.

1 SECTION 5. None of the provisions of this act  
2 shall constitute a contract binding upon the com-  
3 monwealth.