

By Mr. Trudeau of Wilbraham, petition of Theodore J. Trudeau to further define the procedure for establishing a municipal lighting plant. Government Regulations.

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT FURTHER DEFINING THE PROCEDURE FOR ESTABLISHING 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:*

1 Section 2, Chapter 164 of the General Laws is hereby amended  
2 by striking out section 43, as most recently amended by Chapter  
3 379 of the acts of 1929, and inserting in place thereof the  
4 following:—

5 If a town which votes to establish a municipal lighting plant  
6 fails, within one hundred and fifty days from the passage of the  
7 final vote required by section thirty-five or thirty-six, to agree, as  
8 to price or as to the property to be included in the purchase, with  
9 any person or municipality engaged at the time of the first vote  
10 required by said section thirty-five or thirty-six in generating or  
11 distributing gas or electricity for sale for lighting purposes in such  
12 town, either such town or such person or municipality may apply  
13 to the department within thirty days after the expiration of said  
14 one hundred and fifty days for a determination as to what  
15 property ought in the public interest to be included in the  
16 purchase and what price should be paid, having in view the cost  
17 of the property less a reasonable allowance for depreciation and  
18 obsolescence, and any other element which may enter into a  
19 determination of a fair value of the property so purchased, but  
20 such value shall be estimated without enhancement on account  
21 of future earning capacity or good will, or of exclusive privileges  
22 derived from rights in the public ways; and thereupon the  
23 department, after notice to the parties, shall give a hearing

24 thereon and make the determination aforesaid. Such property  
25 shall include such portion of the property of such person or  
26 municipality within the limits of such town as is suitable for, and  
27 used in connection with, the generation or distribution of gas or  
28 electricity within such limits; provided, that such purchase shall  
29 include both a gas and electric lighting plant only if a single  
30 corporation owns or operates such plants. Such price shall  
31 include damages, if any, which the department finds would be  
32 caused by the severance of the property proposed to be included  
33 in the purchase from other property of the owner. If any such  
34 property is subject to any mortgages, liens or other encum-  
35 brances, the department in making its determination shall  
36 provide for the deduction or withholding from the purchase price,  
37 pending discharge, of such sum or sums as it deems proper. Such  
38 determination of evaluation shall be subject to judicial review.

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