

HOUSE No. 749

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.

The Commonwealth of Massachusetts

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

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5 and twenty-nine, is hereby repealed.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 amount

11 that has been expended by such company for its
12 property used and useful in the transaction of its
13 business, or in excess of the fair value thereof less any
14 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 fur-
41 ther period of sixty days in which to pay to the
42 owner the price determined as hereinbefore provided.
43 Such acceptance or rejection in case of a city shall be
44 by vote of its city council, or its commissioners if
45 its 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.