

# HOUSE . . . . No. 753

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By Mr. Murray of Watertown, petition of Wycliffe C. Marshall relative to the establishment and operation of municipal gas and electric plants by cities and towns. Power and Light.

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## The Commonwealth of Massachusetts

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

An Act relative to the Establishment and Operation of Municipal Gas and Electric Plants by Cities and Towns of the Commonwealth.

1 *Whereas*, The deferred operation of this act would  
2 tend to defeat its purpose, therefore it is hereby de-  
3 clared to be an emergency law, necessary for the  
4 immediate preservation of the public welfare.

*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. Chapter one hundred and sixty-four  
2 of the General Laws is hereby amended by striking  
3 out section thirty-four, as appearing in the Tercen-  
4 tenary edition, and inserting in place thereof the  
5 following:—

6 *Section 34.* A city or town may, in accordance  
7 with this chapter, construct, purchase or lease, and  
8 maintain within its limits, one or more plants for  
9 the manufacture or distribution of gas or electricity  
10 for municipal use or for the use of its inhabitants.

11 Such plants may include suitable land structures  
12 and machinery and other apparatus and appliances  
13 for manufacturing, using and distributing gas or  
14 electricity for said purposes.

15 A city or town which has constructed, purchased  
16 or leased such a plant may thereafter reconstruct,  
17 extend or enlarge the plant as hereinafter provided.

1 SECTION 2. Said chapter one hundred and sixty-  
2 four of the General Laws is hereby further amended  
3 by striking out section thirty-five, as so appearing,  
4 and inserting in place thereof the following: —

5 *Section 35.* A city shall not acquire such a plant  
6 until authorized by a majority vote of its city coun-  
7 cil, or of a majority of the commissioners if the city  
8 government consists of a commission, and thereafter  
9 ratified by a majority of the voters at an annual or  
10 special city election. If such a vote is not ratified  
11 no similar vote shall be submitted for ratification  
12 within one year thereafter.

13 A special election for such purpose shall not be  
14 held during the period beginning with June fifteenth  
15 and ending with September fifteenth.

1 SECTION 3. Said chapter one hundred and sixty-  
2 four of the General Laws is hereby further amended  
3 by striking out section thirty-six, as so appearing,  
4 and inserting in place thereof the following: —

5 *Section 36.* A town shall not acquire such a plant  
6 until authorized by a majority vote, taken by ballot  
7 with the use of the voting list, at a town meeting  
8 called therefor and held after notice of not less than  
9 three weeks. In case the town meeting is conducted  
10 as limited or representative form of town meeting,

11 the said vote, if favorable, must thereafter be rati-  
12 fied by a majority of the voters of the town at an  
13 annual or special town election. If such vote is not  
14 ratified, no similar vote shall be submitted by the  
15 limited town meeting for ratification within one year  
16 thereafter.

17 A special election for such ratification shall not be  
18 held during the period beginning with June fifteenth  
19 and ending with September fifteenth.

20 In no case shall a town vote more frequently than  
21 once a year on the question of establishing a plant.

1 SECTION 4. Said chapter one hundred and sixty-  
2 four of the General Laws is hereby further amended  
3 by striking out section thirty-nine, as so appearing,  
4 and inserting in place thereof the following: —

5 *Section 39.* A city or town clerk failing to comply  
6 with any provision of the two preceding sections shall  
7 forfeit not more than twenty-five dollars. But a fail-  
8 ure so to comply shall not invalidate the matters  
9 required to be reported in the certified copies men-  
10 tioned in the two preceding sections.

1 SECTION 5. Said chapter one hundred and sixty-  
2 four of the General Laws is hereby further amended  
3 by striking out section forty-two, as so appearing,  
4 and inserting in place thereof the following: —

5 *Section 42.* If, when a city or town votes to estab-  
6 lish a municipal lighting plant, any person, company,  
7 or municipality was, at the time of the vote required  
8 by section thirty-five or thirty-six, engaged in gen-  
9 erating or distributing gas or electricity for sale for  
10 lighting purposes in such city or town, the city or  
11 town may purchase of him or it, at such price and on



12 such terms as may be agreed upon, such portion of  
13 his or its plant and property within the limits of such  
14 city or town as such city or town desires for its use  
15 and as can be agreed upon, provided, however, that  
16 no such purchase shall be consummated by a city  
17 unless approved by vote of its city council, or of its  
18 commissioners if the city government consists of a  
19 commission, or by a town unless ratified by the voters  
20 at a town meeting not limited or so-called represent-  
21 ative in form.

22 A city or town voting to establish such a plant by  
23 purchase or otherwise may accept and use for carry-  
24 ing out such project any grant, or any grant and loan,  
25 of federal funds, and, for the purpose only of carrying  
26 out such project, may borrow from the United States  
27 of America.

1 SECTION 6. Said chapter one hundred and sixty-  
2 four of the General Laws is hereby further amended  
3 by striking out, in lines forty-two, forty-three, and  
4 forty-four, the words beginning with "A rejection of  
5 the tender" and ending with "a municipal lighting  
6 plant,"—and by striking out, in lines forty-eight to  
7 fifty-one, inclusive, the words beginning with "pro-  
8 vided, however, that in case" and ending with "by  
9 vote at a town meeting."