

HOUSE . . . No. 1392.

[House, No. 1361 as amended and passed to be engrossed, in concurrence,
by the Senate.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-six.

AN ACT

To incorporate the Massachusetts [V] Gas Company.

*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. [A] John M. Bailey, Frank Leake, [B]
2 J. Wilder, [C] H. E. McCoy, John L. Wellington, their
3 associates and successors, are hereby made a corpora-
4 tion, under the name of the "Massachusetts Pipe Line
5 [D] Company," for the purpose of manufacturing, buy-
6 ing, selling, dealing in, conveying, transporting and
7 distributing gas for illuminating, heating, cooking, chemi-
8 cal, mechanical and power purposes, with all the powers
9 and privileges and subject to all the duties, restrictions
10 and liabilities in all general laws which now are or may
11 hereafter be in force applicable to gas companies, except
12 as hereinafter expressly provided.

1 SECT. 2. The following terms wherever used in this
2 act shall have the application and meaning hereinafter
3 set forth, unless some other meaning is clearly apparent
4 from the language, context or manifest intent : —

5 The word “ company,” or a pronoun in place of it,
6 shall be taken and construed to mean the Massachusetts
7 pipe line [E] company hereby incorporated.

8 The word “ gas ” shall be taken and construed as a
9 general term for that commodity, without reference to
10 its illuminating power.

11 The words “ illuminating gas ” shall be taken and con-
12 strued to mean gas of the purity and illuminating power
13 required by general law, intended to be used for illumi-
14 nating purposes by simple ignition at the burner.

15 The words “ fuel gas ” shall be taken and construed to
16 mean gas of any illuminating power, but of the purity
17 required by general law as to illuminating gas, and
18 intended to be used for heating, cooking, chemical,
19 mechanical and power purposes, and may be used without
20 connection with any chimney or flue.

21 The term “ pipe line ” shall be taken and construed
22 to mean a line of mains, pipes or conduits, with the man-
23 holes and other apparatus necessary for the operation
24 thereof, connecting a distributing system, plant for the
25 manufacture of gas, or other pipe line, with any distrib-
26 uting system, plant, pipe line, town or city.

27 The term “ distributing system ” shall be taken and
28 construed to mean any system of mains, pipes or con-
29 duits, in any city or town, with the manholes and other
30 apparatus necessary for the operation thereof, used for
31 distributing gas from any central storage receiving point
32 or pipe line to individual consumers or for public lights
33 in such city or town.

34 The word “ board ” shall be taken and construed to

35 mean the board of gas and electric light commis-
36 sioners.

1 SECT. 3. The capital stock of the company shall be one
2 million dollars, divided into ten thousand shares of the
3 par value of one hundred dollars each. The company may
4 from time to time, but in compliance with the provisions
5 and requirements of the general laws of the Common-
6 wealth applicable to the issue of capital stock, increase
7 its capital stock [F] above the amount fixed by this act
8 in such amounts as shall be approved by the board.

1 SECT. 4. The company may, for the purposes afore-
2 said and subject to the conditions hereinafter set forth, lay,
3 construct, maintain, repair and operate its pipe lines
4 and distributing systems in, along, through, under, across
5 or over any public ways, water courses, railroads, rail-
6 ways, canals, bridges or subways; and may make such
7 excavations and construct such works as may be neces-
8 sary for the laying, construction, maintenance, repair,
9 extension, operation and examination of such conduits,
10 pipes, manholes and other apparatus, machinery and
11 works. But nothing herein shall be construed as author-
12 izing the location by said company of any of its pipes,
13 lines, works, conduits, manholes or machinery in, over,
14 through, under or upon any subway, navigable water
15 course, cemetery or public park or common or public
16 reservation in the nature of a park, until said com-
17 pany has first obtained the consent of the board of harbor
18 and land commissioners, park commissioners or other
19 authorities having control of such subways, cemeteries,
20 navigable water courses, parks, commons or public reser-
21 vations in the nature of parks. No conduit, pipe or
22 main shall be laid longitudinally along the location of

23 any railroad company, [G] without the consent of the
24 directors of such [H] company; but the company may
25 lay, construct, maintain and operate its conduits, pipes
26 or mains across or under any such location at such times
27 and under such reasonable regulations and restrictions
28 as the [I] board of railroad commissioners shall pre-
29 scribe.

1 SECT. 5. If the company shall desire for its pipe
2 lines the right to construct, maintain and operate the
3 same in the streets, lanes and highways of any city or
4 town, it shall petition the aldermen or selectmen there-
5 for, stating the termini of such pipe line in such city
6 or town with as much particularity and certainty as
7 practicable, and stating the streets, highways and lanes
8 in which the company desires to locate such pipe line;
9 and the aldermen or selectmen shall grant that location,
10 or such other location in such streets, lanes and high-
11 ways as they shall deem proper. In the event that said
12 aldermen or selectmen shall for a period of thirty days
13 refuse or neglect to grant a location, or if the company
14 is dissatisfied with the location granted, it may within
15 sixty days thereafter appeal to the board, who, after
16 such hearing and notice as they shall deem proper, shall
17 grant to the company reasonable locations between said
18 termini for such pipe line in the streets, lanes and
19 highways of said city or town. Upon the granting of
20 such locations by said aldermen, selectmen or board, the
21 company may lay, construct, maintain and operate such
22 pipe line in the location granted. Similar rights as to
23 [J] other pipe lines in the same city or town [K] may be
24 procured by the company in the manner aforesaid. The
25 company may, upon obtaining such locations, and subject
26 to such regulations and restrictions in respect to the man-
27 ner and time of conducting the work as said aldermen or

28 selectmen shall prescribe, dig up and open the ground in
29 any of the streets, lanes and highways of said city or
30 town so far as is necessary to accomplish the object of
31 the corporation; but such grant shall not affect the right
32 or remedy to recover damages for an injury caused to
33 persons or property by the doings of the company. It
34 shall put all such streets, lanes and highways which are
35 opened by it in as good repair as they were when
36 opened, and to the satisfaction of the local authorities of
37 the city or town in which such streets, lanes or highways
38 are located, and upon failure so to do within a reasonable
39 time shall be deemed guilty of a nuisance. In construct-
40 ing, maintaining, repairing or extending its distributing
41 system in any city or town the company shall be subject
42 to all the restrictions, regulations and liabilities set forth
43 in section seventy-five of chapter one hundred and six of
44 the Public Statutes, except as in this act provided; and
45 in the construction, maintaining, repairing and extending
46 of its pipe lines and distributing systems it shall in all
47 cases be subject to the restrictions, regulations and liabili-
48 ties set forth in sections seventy-six and seventy-seven
49 of said chapter one hundred and six. If in making such
50 excavations any water or gas pipes, sewers, drains, con-
51 duits or other subterranean works are disturbed or
52 interfered with, the same shall, at the expense of the
53 company, be restored to as good condition as they were
54 in before such excavation. All locations granted under
55 this section shall be subject to revocation by said alder-
56 men or selectmen respectively, subject to the approval
57 of said board.

1 SECT. 6. The company may [L] purchase, lease or
2 operate the works, distributing system and other prop-
3 erty of any person, firm, corporation, town or city
4 engaged in the business of selling or distributing gas,

5 or any portion of such works, distributing system or
6 other property, [M] upon such terms as may be mutually
7 agreed upon and approved by the board and such person,
8 firm, corporation, town or city may sell or lease any of
9 its works, distributing system or other property to the
10 company as aforesaid [N]: *provided, however*, that in
11 case of any such purchase, lease or operating contract,
12 the prices charged by the company to individual con-
13 sumers or for public lights shall thereafter be subject
14 to [O] the provisions of section nine of this act and shall
15 not in any case exceed the prices ruling at the time of
16 such purchase, lease or operating contract; nor shall the
17 company discontinue any portion of the distributing
18 system it may acquire by any such purchase, lease or
19 operating contract, but shall be subject to the pro-
20 visions of section five of chapter three hundred and
21 forty-six of the acts of the year eighteen hundred and
22 eighty-six.

1 [P] SECT. 7. Any person, firm, corporation, town
2 or city engaged in the business of distributing gas may
3 purchase gas of the company and may contract with the
4 company for the purchase of gas for such term of years
5 and upon such terms and conditions as may be mutually
6 agreed upon. The price to be charged by the company
7 for the gas thus furnished by it shall not exceed thirty-five
8 cents per thousand cubic feet delivered to the holder or
9 to the distributing system of such person, firm, corpora-
10 tion, city or town.

1 [Q] SECT. 8. Subject to the provisions of sections
2 seventy-five, seventy-six and seventy-seven of chapter
3 one hundred and six of the Public Statutes, and of sec-
4 tions ten and sixteen of chapter three hundred and four-
5 teen of the acts of the year eighteen hundred and

6 eighty-five, the company may for the purpose of buying,
7 selling, dealing in and distributing fuel or illuminating
8 gas to individual consumers in any city or town, lay,
9 construct, maintain and operate its plant, works and dis-
10 tributing systems in such city or town.

1 [R] SECT. 9. The prices charged by the company for
2 fuel or illuminating gas to individual consumers shall be
3 subject to the jurisdiction of the board as provided in
4 section nine of chapter three hundred and fourteen of the
5 acts of the year eighteen hundred and eighty-five.

1 [S] SECT. 10. Nothing herein contained shall be con-
2 strued to enable the board to authorize the company to
3 engage in the business of selling electricity for light or
4 power.

5 The company shall not be regulated, in so far as it
6 manufactures, distributes and sells gas for heating,
7 cooking, chemical, mechanical and power purposes, by
8 any provision of law relative to illuminating or candle
9 power.

1 [T] SECT. 11. Nothing herein contained, and no
2 action taken by any parties hereunder, shall be construed
3 to take away from any city or town which now possesses
4 the right to establish and maintain a plant of its own for
5 the manufacture and distribution of gas any rights it now
6 possesses.

1 SECT. 12. [SECT. 8.] The supreme judicial court
2 and any justice thereof, and the superior court and any
3 justice thereof, shall have jurisdiction in equity, on
4 petition of any party interested, to compel compliance
5 with the provisions of this act and to prevent any viola-
6 tions of the provisions thereof.

[U]

SENATE, June 4, 1896.

Passed to be engrossed, in concurrence, with the following amendments:—

In section 1 by inserting at [A], the names, “Henry M. Whitney, Henry F. Dimock, Fred S. Pearson, James Phillips, Jr., Albert N. Parlin, George B. M. Harvey.”

At [B] by striking out the name “J. Wilder,” and inserting in place thereof the name “Jonas Wilder.”

At [C] by striking out the name “H. E. McCoy,” and inserting in place thereof the name “Henry E. McCoy.”

At [D] by inserting the word “Gas.”

In section 2. At [E] by inserting the word “Gas.”

In section 3. At [F] by striking out the words “above the amount fixed by this act in such amounts as shall be approved by the board,” and inserting in place thereof the words “to an amount not exceeding five million dollars.”

In section 4. At [G] by inserting the words “nor shall any manhole or other structure be erected within such location.”

At [H] by inserting the word “railroad.”

At [I] by striking out the words “board of railroad commissioners,” and inserting in place thereof the words “directors of such railroad company.”

In section 5. At [J] by striking out the word “other,” and inserting in place thereof the word “additional.”

At [K] by striking out the words “may be procured by the company in the manner aforesaid,” and inserting in place thereof the words “shall be obtained only by permission of the board.”

In section 6. At [L] by inserting the words “subject to the approval of the board and upon such terms and conditions as may be mutually agreed upon and as may be approved by the board.”

At [M] by striking out the words “upon such terms as may be mutually agreed upon and approved by the board,” and inserting in place thereof the words “in any city or town in which the company has laid a pipe line.”

At [N] by inserting the words “The company may thereupon use the said works, distributing system or other property for the purpose of selling gas to the inhabitants of the town or city within which the same are situated.”

At [O] by striking out the words “provisions of section nine of this act,” and inserting in place thereof the words “jurisdiction of the board as provided by section nine of chapter three hundred and fourteen of the acts of the year eighteen hundred and eighty-five.”

In Section 7. At [P] by striking out all of said section and inserting in place thereof the following new section:—

1 “Section 7. The company may sell or deliver fuel or
2 illuminating gas to any gas company or to any town or
3 city authorized by law to distribute gas; and any gas
4 company and any such town or city may contract for the
5 purchase of gas of the company for such term of years,
6 and on such conditions as may be mutually agreed upon;
7 but the prices charged by the company for such gas shall
8 not exceed the following amount per thousand cubic feet
9 for fuel gas of a heat value not less, on the average, than
10 five hundred and eighty British thermal heat units, de-
11 livered at the holder or mains of any such gas company,
12 town or city, at the following distances from the State
13 House: twenty cents within five miles, twenty-five cents
14 between five and fifteen miles, and thirty cents beyond
15 fifteen miles; and not exceeding five cents additional in
16 each case for illuminating gas of the candle power re-
17 quired by law. The company shall not sell gas to indi-
18 vidual consumers except as provided in section six of this
19 act.”

At [Q] by striking out Section 8.

At [R] by striking out Section 9.

At [S] by striking out Section 10.

At [T] by striking out Section 11.

At [U] add the following new section: “Sect. 9. This act shall take effect upon its passage.”

At [V] insert in the title the words “Pipe Line.”

Sent down for concurrence.

HENRY D. COOLIDGE, *Clerk.*

