

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 634

House of Representatives, March 21, 1913.

*Reported by Mr. Conners from Committee on Legal Affairs,
and ordered printed under joint rules.*

W. R. ROIX, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT to authorize the Town of South Berwick to own and
maintain an electric lighting and power plant.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The town of South Berwick is hereby authorized
2 to acquire, construct, own and maintain an electric lighting
3 and power plant, and for such purpose said town is vested
4 with power to raise money and to provide for the raising of
5 money, at its annual meeting or at any legal meeting called
6 for that purpose, for the purchase or lease of lands, water
7 power, dams, manufactories and works for providing and
8 supplying electricity and for the purchase of dynamos, plant,

9 equipment and other apparatus necessary for equipping and
10 properly maintaining an electric lighting and power plant.

Sect. 2. Said town is also authorized to construct, lay,
2 maintain and support lines of wire or other material for
3 the transfer of electricity upon, under, along and over any
4 and all streets and roads within the limits of said town, and
5 for such purpose to erect, establish and maintain in and
6 along said streets and roads all necessary poles, pipes and
7 apparatus, provided that said poles, pipes and apparatus are
8 so constructed, established and maintained as not unreason-
9 ably to interfere with the public use of said streets and roads.

Sect. 3. Said town is also authorized to use the electricity
2 by it manufactured and generated to light its streets, roads
3 and public squares and all buildings and parts of buildings
4 owned, used or occupied by it; and said town is further au-
5 thorized to sell, distribute and furnish electricity for light-
6 ing, heating and power to individuals and corporations with-
7 in said town.

Sect. 4. Said town is further authorized to purchase or
2 lease the properties in whole or in part of any corporation
3 organized for furnishing electricity for lighting or power
4 within the territory of said town; and such corporation is
5 hereby empowered to sell, transfer, convey or lease its prop-
6 erties in whole or in part to said town.

Sect. 5. The full management, control and operation of
2 such electric lighting plant and property as said town may at
3 any time acquire shall be by a board of commissioners com-

4 posed of three members, to be chosen by ballot by the legal
5 voters of said town, the first election to be at the meeting
6 of the legal voters of said town when said town by the vote
7 of its legal voters decides to act and do business under this
8 act. One commissioner to serve for the period of one year;
9 one commissioner to serve for the period of two years, and
10 the other commissioner to serve for the period of three years
11 from the date of said meeting; the terms of office of said
12 commissioners being such that after the first election one
13 commissioner shall be elected each year to serve for three
14 years. The selectmen of said town may fill such vacancies as
15 may occur from time to time for the unexpired term. After
16 the first election the annual election of officers shall be at the
17 annual town meeting of said town. The office of the com-
18 missioners shall be at the office of the selectmen of said
19 town. Each member shall receive in full compensation for
20 his services an allowance of fifty dollars (\$50.00) per year,
21 or such other less sum as the said town at a legal meeting
22 shall prescribe.

The town at any legal meeting thereof called for the pur-
24 pose, may adopt such by-laws and provisions, not inconsis-
25 tent with the laws and constitution of this state and the
26 United States, as they may deem expedient and necessary
27 for the better government and regulation of the municipal
28 affairs within said town, in which case such by-laws and
29 provisions so adopted shall extend to the management of
30 the business of said town relating to the maintaining and

31 operation of an electric plant and the use and disposition of
32 electricity as fully to all intents and purposes as the other
33 provisions of this act, subject only to alterations or addi-
34 tions by a two-thirds vote of a legal meeting of the town
35 called for the purpose.

Sect. 6. The said commissioners shall annually elect a
2 treasurer who shall not be a member of the board of com-
3 missioners and who shall hold office during the year sub-
4 ject to the right of removal by said commissioners at their
5 pleasure.

The title of said treasurer shall be "Treasurer of South
7 Berwick Electric Commissioners."

The duties of said treasurer shall be fixed by the by-laws
9 hereinbefore provided for under section 5.

Sect. 7. All individuals, firms and corporations, whether
2 private, public, national or municipal, shall pay to the treas-
3 urer of the South Berwick Electric Commissioners the rate
4 established by said commissioners for electricity used by
5 them and said rate shall be uniform within the limits of said
6 town. Said rate shall be so established as to provide rev-
7 enue for the following purposes:

1. To pay the current running expenses of maintaining
9 the electric system and plant and to provide for such exten-
10 sion and renewals as may become necessary.

2. To pay full interest on the indebtedness of the town
12 for the establishing and maintaining of the electric plant
13 system and equipment.

3. To provide each year a sum equal to not less than one
15 or more than five per cent of the entire indebtedness of the
16 town for such electric plant and system, which sum shall
17 be turned into a sinking fund to provide for the final extin-
18 guishment of the funded debt. The money set aside for
19 the sinking fund shall be devoted to the retirement of the
20 obligations of the town for its undertakings under this act,
21 or invested in such securities as savings banks are allowed
22 to hold.

Sect. 8. Said town is hereby authorized and empowered
2 to acquire by purchase or by the exercise of the right of
3 eminent domain, which right is hereby expressly delegated
4 to said town for said purpose, the entire plant, property and
5 franchises, rights and privileges now held by the Berwick
6 & Salmon Falls Electric Company and of The Twin State
7 Gas & Electric Co. within said town, including all poles,
8 lines, machinery and rights of way in said town.

Sect. 9. In case said town fails to agree with said Ber-
2 wick & Salmon Falls Electric Company and with The Twin
3 State Gas & Electric Co. upon the terms of purchase of the
4 above mentioned property within ninety days after said
5 town shall have appointed a committee for the purchase of
6 said property, said town through its municipal officers is
7 hereby authorized to take said plant, property and franchises
8 as for public uses by petition therefor in the manner here-
9 inafter provided. And said town through its municipal offi-
10 cers is hereby authorized at any time after the expiration of

11 said ninety days to file a petition in the clerk's office of the
12 supreme judicial court for the county of York, in term time
13 or in vacation, addressed to any justice of said court who
14 after notice to said Berwick & Salmon Falls Electric Com-
15 pany and to The Twin State Gas & Electric Co. and their
16 mortgagees or successors, shall after hearing and within
17 thirty days after the filing of said petition appoint three dis-
18 interested appraisers, one of whom shall be learned in the
19 law, for the purpose of fixing the valuation of said plant,
20 property and franchises. The said appraisers shall have the
21 power of compelling attendance of witnesses and the pro-
22 duction of books and papers pertinent to the issue, and may
23 administer oaths; and any witness, or person in charge of
24 such books or papers, refusing to attend, or to produce the
25 same, shall be subject to the same penalties and proceedings
26 as far as applicable as witnesses summoned to attend the
27 supreme judicial court. The appraisers so appointed shall
28 after due notice and hearing fix the valuation of said plant,
29 property and franchises at what they fairly and equitably
30 are worth, so that the said Berwick & Salmon Falls Electric
31 Company and The Twin State Gas & Electric Co. shall re-
32 ceive just compensation for all the same. The report of
33 said appraisers or a majority of them, shall be filed in said
34 clerk's office, in term time or vacation within five months
35 after their appointment and such single justice or in case
36 of his inability to act then, any justice designated for the
37 purpose by the chief justice, may after notice and hearing

38 confirm or reject the same, or recommit it if justice requires.
39 The award of the appraisers shall be conclusive as to valu-
40 ations. Upon the confirmation of said report the court so
41 sitting shall thereupon, after hearing, make final decree upon
42 the entire matter, including the application of the purchase
43 money, discharge of incumbrances and transfer of the prop-
44 erty, jurisdiction over which is hereby conferred, with the
45 same power to enforce said decree as in equity cases. Upon
46 request of either party the justice so making such final de-
47 cree shall make separate findings of law and fact. All such
48 findings of fact shall be final, but either party aggrieved
49 may take exceptions to any rulings of law so made, the same
50 to be accompanied only by such parts of the case as are nec-
51 essary to a clear understanding of the questions raised there-
52 by. Such exceptions shall be claimed on the docket within
53 ten days after such final decree is signed, entered and filed,
54 and notice thereof has been given by the clerk to the parties
55 or their counsel, and said exceptions so claimed shall be
56 made up, allowed and filed within said time unless further
57 time is granted by the court or by agreement of parties.
58 They shall be entered at the next term of the law court to
59 be held after the filing of said decree, and there heard, un-
60 less otherwise agreed, or the law court shall for good cause
61 order a further time for hearing thereon. Upon such hear-
62 ing the law court may confirm, reverse or modify the decree
63 of the court below, or remand the cause for further pro-
64 ceedings as it seems proper. During the pendency of such

65 exceptions the cause shall remain on the docket of the court
66 below marked "law" and decree shall be entered thereon by
67 a single justice in term time or in vacation, in accordance
68 with the certificate and opinion of the law court. On pay-
69 ment or tender by said town of the amount so fixed and
70 the performance of all other terms and conditions so im-
71 posed by the court, said entire plant, property and franchises
72 shall become vested in said town and be free from all liens,
73 mortgages, and incumbrances theretofore created by the Ber-
74 wick & Salmon Falls Electric Company or The Twin State
75 Gas & Electric Co.

Sect. 10. Sections two, three and four of this act shall be
2 inoperative, null and void, unless the said town shall first
3 acquire by purchase, or by the exercise of the right of emi-
4 nent domain as this act provides, the plant, property and
5 franchises, rights and privileges now held by the Berwick
6 & Salmon Falls Electric Company and The Twin State Gas
7 & Electric Co. within said town.

Sect. 11. All costs and expenses arising under the pro-
2 visions of this act shall be paid and borne as directed by the
3 court in the final decree provided by Section 9.

Sect. 12. All the incidental powers, rights and privileges
2 necessary to the accomplishment of the main objects herein
3 set forth are granted to the said town.