



APPENDIX TO CHAPTER 164

*The laws included in this appendix were not enacted
as part of the General Laws, but are set out herein for convenient reference.*

MASSACHUSETTS MUNICIPAL WHOLESale ELECTRIC COMPANY

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*St. 1975, c. 775, §§ 1 to 25, an emergency act, enacting
the provisions set out as sections 1-1 to 1-25 of this appendix,
was approved December 17, 1975.*

§ 1 – 1. Definitions

The following words as used in this act shall, unless the context otherwise requires, have the following meanings:

“Alternative energy facilities”, shall include but not be limited to facilities powered in whole or in part by the sun, wind, water, biomass, refuse, alcohol, wood or any renewable non-depletable fuel, and cogeneration.

“Bonds” or “bond”, bonds, notes and other evidence or indebtedness of the corporation issued under the provisions of this act.

“Corporation”, the Massachusetts Municipal Wholesale Electric Company, heretofore organized under chapter one hundred and sixty-four of the General Laws.

“Department”, the department of public utilities.

“Energy, electricity, electric power, electric capacity, electric energy, natural gas, liquefied natural gas, liquefied petroleum air gas, propane air synthetic natural gas, oil, steam, coal, water, wind, solar, battery, or any by-products, derivatives, services, ancillary products or ancillary services derived therefrom, including, but not limited to, reactive power or voltage control. Loss compensation, scheduling and dispatch, load follow, system protection services and energy imbalance services, emissions allowances or the transmission, transportation, storage, purchase, sale, exchange or interchange of energy capacity, either electric or other, distribution, disposal, decommissioning thereof, or the transmission, transportation, storage, disposal, decommissioning or distribution of any by-products thereof.

“Energy facility”, an electric power facility, or a system or facility, or an interest in or right to the use of services derived from the facility or system or a part of thereof, including an energy conservation system, system for the production of renewable energy or alternative energy facility for the manufacture, generation, transmission, distribution, transformation, transportation, storage, purchase, sale, exchange or interchange or conservation of energy or any by-products or ancillary products thereof or services derived therefrom by any means, including, but not limited to, vehicles, personal or real property and a facility for processing refuse or other materials into fuel with or without other by-products, or facilities and property for the acquisition, extraction, conversion, transportation, storage, reprocessing or disposal of fuel and other materials of any kind for any of these purposes, as necessary to carry out the purposes of this act.

“Energy conservation systems”, any projects, systems, programs and measures to promote or implement energy conservation, and as authorized in clause (p1/2) of section five.

“Majority vote”, majority vote as defined in section one of chapter forty-four of the General Laws.

“Municipal light board”, the municipal light board or commission, municipal gas and electric commission or similar body of a city or town having a municipal electric department established under chapter one hundred and sixty-four of the General Laws or a special act; the mayor or city manager, as the case may be, of such a city having no such body; or the selectmen of such a town having no such body. Such a city or town may exercise any of its power or authority contained in this act through its municipal light board.

St. 1975, c. 775, §1.

Amended by St. 1988, c. 129, §§1,2.

Amended by St. 2008, c. 535, §1, eff. April 16, 2009

§ 1 – 2. Corporate status

The corporation is hereby made a body politic and corporate and a political subdivision of the commonwealth. Said corporation is constituted a public instrumentality and the exercise of the powers conferred by this act shall be deemed and held to be the performance of an essential public function.

St. 1975, c. 775, § 2.

§ 1 – 3. Municipal membership of corporation

(a) Each city or town which is entitled to nominate a director of the corporation immediately prior to the effective date of this act and which is authorized to become a member of the corporation by majority vote such city or town shall be a member of the corporation. Any other city or town having a municipal electric department, established under the provisions of chapter one hundred and sixty-four of the General Laws or a special act, and which is authorized to become a member by majority vote of such city or town may become a member by applying for admission to the corporation and agreeing to comply with such reasonable terms and conditions of membership as the by-laws may fix from time to time. Membership may be

terminated pursuant to such reasonable terms and conditions as the by-laws may fix from time to time, provided that liabilities under contracts in force at the time of such termination shall not be affected except as provided in such contracts.

(b) The member cities and towns, voting at a meeting or by written instrument, shall have the power to adopt, amend or repeal the by-laws and to elect directors of the corporation. Each member city or town shall from time to time designate, by a writing filed with the corporation, its manager of municipal lighting or a member of its municipal light board to vote and execute such written instruments on its behalf. Each member city or town shall have one equal vote, except that the election of the directors of the corporation shall be carried out according to the procedure set forth in clause (a) of section four. A majority of the votes shall be necessary for action by the member cities and towns.

© The general expenses of the corporation which are not provided from other sources may be provided by the member cities and towns as may be agreed upon with the corporation.
St. 1975, c 775, §3.

§ 1 – 4. Board of directors, appointment; election; term; vote; removal; vacancies; expenses and compensation; officers

(a) Except as otherwise provided in this act, the powers of the corporation shall be exercised by a board of nine directors. The governor shall appoint two directors who shall serve at the pleasure of said governor. The member cities and towns shall elect seven directors from among their respective managers of municipal lighting and members of their municipal light boards. Four of the elected seven directors shall be elected by the member cities and towns each of whom shall have a vote which shall be given weight in the same proportion which its annual kilowatt hour sales, as most recently reported to the department under chapter 164 of the General Laws or as otherwise determined or estimated in accordance with the by-laws, bears to the total of such sales by all member cities and towns. Three of the elected seven directors shall be elected by the member cities and towns each of whom shall have one equal vote. Of the directors elected at the annual meeting in 1999, two of the four directors elected by weighted vote shall serve for a term of three years and two shall serve for a term of two years. One of the directors elected by equal vote shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year. Thereafter, all seven elected directors shall be elected as their respective terms expire in the manner prescribed in this section and each shall serve for a term of three years and until their successors are chosen and qualified. An elected director may be removed at any time by the member cities and towns with or without cause or for cause by the board. The member cities and towns shall elect a successor to fill any vacancy among the elected directors for their respective unexpired term. No vacancy in the membership of the board shall impair the right of a quorum to exercise the powers of the board. A majority of full membership of the board shall constitute a quorum and a majority of such quorum shall be necessary for any action by the board. The directors shall not be entitled to compensation for their services as such but shall be reimbursed for actual expenses necessarily incurred in the performance of their duties.

(a1/2) Notwithstanding the provisions of subsection (a), one representative each from the towns of Ludlow, Hampden and Wilbraham shall be entitled to serve as an additional member of the board of directors, to attend the meetings of said board, and to vote on any matters before the board that affect the town represented by said member, provided, that each such additional member shall be elected by a vote of, and serve at the pleasure of, the board of selectmen of the applicable town.

(b) The board shall annually choose a chairman, a secretary and a treasurer, and such other officers as the board may determine. Two or more offices may be held by the same person, and except in the case of the chairman, an officer need not be a director. Each officer shall serve until his successor is chosen and qualified unless sooner removed by the board, with or without cause. In the event of a vacancy in any office, the board shall fill the vacancy for the unexpired term. If a director serves as secretary or treasurer or both, he may be compensated by the

corporation for his services as such, otherwise a director shall not be compensated by the corporation for his services as an officer, but he shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

© A director or officer of the corporation who is also an officer or employee of the commonwealth or of a member city or town or other public body shall not thereby be precluded from voting or acting on behalf of the corporation on a matter involving the commonwealth or the city or town or other public body.

St. 1975, c. 775, § 4. Amended by St. 1997, c. 43, §148; St. 1998, c. 194, §249

§ 1 – 5. Rights and powers of corporation

The corporation shall have all the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, but without limiting the generality of the foregoing, the rights and powers.

- (a) to adopt by-laws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;
- (b) to adopt an official seal and alter the same at pleasure;
- (c) to maintain an office at such place or places as it may determine;
- (d) to adopt a fiscal year and alter the same at pleasure;
- (e) to sue and be sued;
- (f) to receive, administer and comply with the conditions and requirements respecting any gift, grant, donation or appropriation of any property or money;
- (g) to acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, tangible or intangible, including an interest in land less than the fee thereof;
- (h) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to any real or personal property or interest therein, upon the terms and conditions as the corporation shall determine, with or without consideration and notwithstanding whether the real or personal property shall be needed by or useful to the corporation;
- (i) to pledge or assign any money, fees, charges or other revenue of the agency, or any real or personal property and any proceeds derived by the corporation from the sale of energy or property or any insurance or condemnation awards;
- (j) to employ personnel who shall serve at the pleasure of the directors, provided, however, that the corporation may bind itself by contract to employ a general manager for a period not exceeding five years;
- (k) to borrow money and issue its bonds as provided in this act and to provide a pooled loan program on behalf of and for the benefit of its members, to make loans to its members and to enter into leases on behalf of its members, both as lessee or lessor;
- (l) to purchase energy, including, but not limited to, all or a portion of the capacity and output of energy facilities and steam, whether or not produced by an energy facility;
- (m) to sell energy and other products of energy facilities to member and non-member cities and towns having municipal electric departments established under chapter one hundred and sixty-four of the General Laws or a special act and to other utilities, public and private, within and without the commonwealth; such cities and towns are hereby authorized to purchase energy sold by the corporation, provided, however, that nothing in this act shall be construed to authorize resale of energy so purchased except as otherwise authorized by law;
- (n) to contract for the use of transmission and distribution facilities owned by others for the delivery to purchasers of electric power and energy sold by the corporation, any such owner is hereby authorized to enter into such contracts with the corporation;
- (o) to contract with respect to the purchase, sale, delivery, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy and to otherwise

participate in intrastate, interstate and international arrangements with respect thereto, including a New England power pool as defined by section one of chapter one hundred and sixty-four A of the General Laws;

- (p) jointly or separately to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of or otherwise participate in energy facilities or portions thereof or research and development relating thereto within or without the commonwealth and to enter into and perform contracts with respect thereto if the corporation acquires or owns an interest as a tenant in common with others in any energy facilities within the commonwealth, the surrender or waiver by any such owner of such property of its right to partition such property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of such period, or as unduly restricting the alienation of such property;
- (p^{1/2}) in addition to and not in derogation of any other authority previously granted under this act, jointly or separately to plan, finance, operate, use, share costs of, sponsor, publicize or otherwise participate in projects, systems, programs or measures to promote or implement energy conservation and load management including but not limited to energy-conserving or load reducing modifications of the maintenance and operating procedures of a building or facility or in the installation therein; energy-conserving modifications to windows and doors; caulking and weatherstripping; insulation; automatic energy control systems; load management systems; hot water systems; equipment required to operate variable steam, hydraulic and ventilating systems; plant and distribution system modifications, including replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; replacement or modifications of lighting fixtures; energy recovery and recycling systems; and cogeneration systems or portions thereof; or research and development relating thereto within or without the commonwealth and to enter into and perform contracts with respect thereto if the corporation acquires or owns an interest as a tenant in common with others in any energy conservation system within the commonwealth the surrender or waiver by any such owner of such property of its right to partition such property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of such period, or as unduly restricting the alienation of such property.
- (q) to apply to the appropriate agencies of the commonwealth, other states, the United States, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, and to construct, maintain and operate energy facilities in accordance with such licenses, permits, certificates or approvals;
- (r) to apply and contract for and to expend assistance from the United States or other sources, whether in form of a grant or loan or otherwise;
- (s) to make and execute all contracts and agreements and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this act;
- (t) to enter into contracts determined by the corporation to be necessary or for the prudent management of its assets, funds, debts or fuels, including, without limitation, interest rate swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, leases or other risk management instruments;
- (u) to exercise and perform all or a part of its powers and functions through wholly-owned or partly-owned corporations or other entities; and
- (v) to do all things necessary, convenient or desirable to carry out the purposes of this act or the powers expressly granted or necessarily implied in this act.

Contracts entered into by the corporation pursuant to this section (i) may be for the life of a facility or other term or for an indefinite period, (ii) may provide for the payment of unconditional obligations imposed without regard to whether a facility is undertaken, completed,

operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a facility and (iii) may contain provisions for prepayment, non-unanimous amendment, arbitration, delegation and other matters deemed necessary or desirable to carry out their purposes.

St.1975, c. 775, § 5.

Amended by St.1988. c. 129. § 3.

Amended by St. 2008, c 535, §§ 2, 3, 4, 5, 6, 7, 8, 9, eff. April 16, 2009

§ 1-6. Contracts to sell electric power; computing borrowing capacities of cities or towns; fees and charges

- (a) The corporation, and member and non-member cities and towns having municipal electric departments established under chapter one hundred and sixty-four of the General Laws or by a special act and other utilities, public or private, may enter into energy contracts including, without limiting the generality of the foregoing, contracts providing for the sale or purchase of energy or energy facilities, borrowing by members under a pooled loan program, planning, engineering, design, acquiring sites or options for sites or options for sites and expenses preliminary or incidental to such facilities. Any such contract (i) may be for the life of a facility or other term or for an indefinite period, (ii) may provide for the payment of unconditional obligations imposed without regard to whether a facility is undertaken, completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a facility and (iii) may contain provisions for prepayment, non-unanimous amendment, arbitration, delegation and other matters deemed necessary or desirable to carry out its purposes. Any such contract may also provide, in the event of default by any party thereto in the performance of its obligations thereunder, for other parties to assume the obligations and succeed to the rights and interests of the defaulting party, pro rata or otherwise as may be agreed upon in the contract.

(b) Neither the obligations of the corporation nor the obligations of any member or non-member cities or towns under any energy contracts hereunder shall be included in computing the borrowing capacities of the cities and towns. The obligations of cities and towns with municipal electric departments established under chapter 164 of the General Laws or by a special act shall be treated as expenses of operating their electric plants and shall constitute special obligations of the cities and towns, payable solely from the revenues and other moneys derived by the cities and towns from their electric departments or systems. The liability of those cities and towns from other funds shall be limited to obligations undertaken by them to pay for the energy used by them.

(c) A city or town shall be obligated to fix, revise and collect fees and charges for energy and other services, facilities and commodities furnished or supplied through its electric department or system at least sufficient to provide revenues adequate to meet its obligations under any contracts with the corporation and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including amounts sufficient to pay the principal and interest on all bonds issued by the city or town for energy-related purposes.

St.1975, c. 775, § 6.

Amended by St. 2008, c. 535, §§ 10, 11, eff. April 16, 2009; St. 2012, c. 209, §31, eff. Nov. 1, 2012

§ 1-7. Eminent domain

Subject to those provisions of chapter one hundred and sixty-four of the General Laws which are made applicable by section nineteen hereof, the corporation may acquire real property, or any interest therein, by eminent domain in accordance with the provisions of chapter seventy-nine or chapter eighty A; provided, however, that (i) no property already appropriated to public use shall be so taken except to the extent and for the purposes permitted by said provisions of said chapter one hundred and sixty-four and (ii) no facility for the generation, transmission or distribution of electric power and energy owned by any person shall be so taken except for the purpose of acquiring property or rights therein to permit the crossing of existing transmission or

distribution facilities. Any taking under chapter seventy-nine of the General Laws shall be governed by the provisions of said chapter which are applicable to public corporations or authorities. Before a taking is made or injury inflicted by the corporation for which damages may be recovered under chapters seventy-nine or eighty A of the General Laws, the corporation shall file with the department of public utilities security to the satisfaction of the department for the payment of all damages and costs which may be awarded for the property taken or injured; and if, upon petition of the owner and notice to the corporation, any security taken appears to the department to have become insufficient, the department shall require the corporation to give further security to the satisfaction of the department.

St.1975, c. 775, § 7.

Cross References

Eminent domain, generally, see c. 79, § 1 et seq.

§ 1-8. Tax exemptions

(a) The corporation shall not be required to pay any taxes upon its income, existence or franchise, and the bonds issued by the corporation, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation within the commonwealth.

(b) Real and personal property, situated within the commonwealth and owned by the corporation shall be exempt from property taxation, provided, however, that the corporation shall, in lieu of property taxes, pay to any governmental body authorized to levy local property taxes the amount which would be assessable as local property taxes on the real and tangible personal property if such property were the property of a corporation defined as an "electric company" in section one of chapter one hundred and sixty-four of the General Laws. Such payments shall be due, and bear interest if unpaid, as in the case of taxes on the property of such an "electric company". For purposes of such payments in lieu of taxes, the assessors of the taxing authority shall make a valuation and assessment of the property and determine the tax that would be assessable if such property were owned by a corporation as defined as an "electric company". Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law, including appeals, now and hereinafter in effect applicable to assessment and taxation of real and personal property, collection and abatement of such taxes and the raising of public revenues.

St.1975, c. 775, § 8.

§ 1 – 9 Bonds; terms and conditions; signature; interim receipts

(a) The corporation may, subject to the approval of the department under this act, borrow money by the issue of its bonds for any of its corporate purposes. Bonds may be issued hereunder as mortgage bonds, as general obligations of the corporation or as special obligations payable solely from particular funds. Without limiting the generality of the foregoing, these bonds may be issued for project costs, prepayment of fuel, transmission or transportation of fuel, or for the corporation's share of project costs of energy facilities or long-term purchases of rights to use energy facilities which may include interest before and during the carrying out of any project and for a reasonable period after that time, prepayments under contracts for the purchase of energy or services related thereto, stranded investment costs, early termination costs of any energy project, decommissioning cost, reserve for debt service or other capital or current expenses that may be required by a trust agreement or resolution securing bonds, and all other expenses incidental to the determination of the feasibility of any project or to the carrying out of the project or to the placing of the project in operation.

(b) The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times, as may be determined by the corporation, and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be fixed by the corporation prior to the issue of the bonds. The corporation shall determine the form of the bonds, including interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or

denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the commonwealth.

(c) In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until after such delivery. The corporation may also provide for authentication of bonds by a trustee or fiscal agent.

(d) The bonds may be issued in coupon or in registered form, or both, as the corporation may determine and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The corporation may sell its bonds in such manner, either at public or private sale, and for such price, as it may determine will best effect the purposes of this act.

(e) The corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.

St.1975, c. 775, § 9.

Amended by St. 2008, c 535, § 12, eff. April 16, 2009

§ 1 - 10. Bond security; trust agreement or resolution; fees and charges; disposition of proceeds

(a) In the discretion of the corporation, but subject to the terms of the department's approval, any bonds issued under this act may be secured by a resolution of the board or by a trust agreement between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth. This trust agreement shall be in a form and executed in a manner that may be determined by the corporation. The trust agreement or resolution may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the corporation, including the revenues from any facilities existing when the pledge or assignment is made, and any contract or other rights to receive the same, whether then existing or later coming into existence and whether then held or later acquired by the corporation, and the proceeds thereof. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include (i) the acceleration of maturities and covenants setting forth duties of, and limitations on, the corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, use, operation, repair, insurance and disposition of property, the custody, safeguarding, investment and application of moneys, the issue of additional bonds, the fixing, revision and collection of fees and charges, the use of any surplus bond proceeds, the establishment of reserves, and the making and amending of contracts and (ii) provision for the trustee under such a trust agreement to take possession and control of the business and properties of the corporation, to operate and maintain the same, to make any necessary repairs, renewals and replacements in respect thereof, and to fix, revise and collect fees and charges.

(b) The corporation is authorized to fix, revise and collect fees and charges for energy and other services, facilities and commodities furnished or supplied by it. For as long as any bonds of the corporation are outstanding and unpaid, such fees and charges shall be so fixed so as to provide revenues at least sufficient to pay all costs and expenses in connection with the operation and maintenance of energy facilities and all necessary repairs, replacements and renewals thereof, to pay when due the principal of, premium if any, and interest on all bonds of the corporation, to create and maintain reserves as may be required by any trust agreement or resolution securing bonds, and to pay any and all amounts which the corporation may be obligated to pay by law or contract.

(c) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds or of revenues or other moneys under any such trust agreement or resolution and to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the corporation may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as current operating expenses. The pledge by any such trust agreement or resolution shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code¹ from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the corporation, and no filing need be made under the Uniform Commercial Code.

St.1975, c. 775, § 10.

Amended by St. 2008, c. 535, §§ 13, 14, 15, eff. April 16, 2009

§ 1 - 11. Refunding bonds

The corporation may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption, subject to the approval of the department under this act. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the corporation deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the corporation in respect of the same shall be governed by the provisions of this act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

St.1975, c. 775, § 11.

§ 1 - 12. Debt of commonwealth, cities or towns

Bonds issued under the provisions of this act shall not be deemed to be a debt of the commonwealth or of any city or town or a pledge of the faith and credit of the commonwealth or of any city or town. All bonds shall contain on the face thereof that neither the commonwealth nor any city or town shall be obligated to pay the same and that neither the faith and credit nor the taxing power of the commonwealth or of any city or town is pledged to the payment of the principal of or interest on the bonds. Every bond shall also recite whether it is a general obligation of the corporation or a special obligation thereof payable solely from particular funds pledged to its payment.

St.1975, c. 775, § 12.

¹ Chapter 106, § 1-101 et seq.

§ 1 - 13. Trust funds

All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or notes or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

St.1975, c. 775, § 13.

§ 1 - 14. Enforcement of bondholders' rights

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may bring suit upon the bonds or coupons and may, either at law or in equity, by suit, action, mandamus, or other proceedings which may include appointment of a receiver to take possession and control of the business and properties of the corporation, to operate and maintain the same, to make any necessary repairs, renewals and replacements in respect thereof, and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the corporation or by any officer thereof.

St.1975, c. 775, § 14.

§ 1 - 15. Legal investment in bonds

Bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law.

St.1975, c. 775, §15

§ 1 - 16. Bonds; investment securities

Notwithstanding any of the. provisions of this act or any recitals in any bonds issued under this act, all such bonds shall be deemed to be investment securities under the Uniform Commercial Code¹.

St.1975, c. 775, § 16.

§ 1 - 17. Amount of bonds; approval; hearing

The corporation shall issue only such amount of bonds as the department may from time to time vote is reasonably necessary for the proposed purpose of such issue, and such approval shall be subject to such reasonable terms and conditions as the department may determine to be in the public interest; provided, however, that where such bonds are payable at periods of not more than one year after the date of issue, approval of such issuance by the department shall not be required. The department shall render a decision upon an application for such issue, after notice and hearing, within thirty days after the final hearing thereon. The decision shall be in writing, shall assign the reasons therefor, shall, if approving such issue, specify the principal amount of bonds which are approved to be issued and shall, within seven days after it has been rendered, be filed in the office of the department.

St. 1975, c. 775, §17. Amended by St.1981, c. 105.

¹Chapter 106 § 1-101 et seq.

§ 1 - 18. Bonds issued without obtaining consent

Bonds may be issued under this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefor by this act, and the validity of and security for any bonds issued by the corporation shall not be affected by the existence or non-existence of any such consent or other proceedings, conditions or things.

St.1975, c. 775, § 18.

§ 1 - 19. Law applicable

(a) Section eleven A½ of chapter thirty A and section twenty-three C of chapter thirty-nine of the General Laws, relating to meetings of public boards, and section ten of chapter sixty-six relating to the availability of public records as defined in clause twenty-sixth of section seven of chapter four of the General Laws shall apply to the corporation, provided, however, that the corporation shall not be obligated to disclose trade secrets or commercial or financial information if the corporation determines that such disclosure would adversely affect its ability to conduct business in relation to other suppliers of electric power and energy.

(b) Sections sixty-one and sixty-two of chapter thirty of the General Laws relating to the environmental impact of works, projects or activities conducted by authorities of the commonwealth shall apply to the corporation.

(c) Sections sixty-nine G to sixty-nine R, inclusive, seventy-one to seventy-five, inclusive, seventy-nine, one hundred and twenty-five A and one hundred and twenty-seven of chapter one hundred and sixty-four and sections twenty-one to twenty-two N, inclusive, and twenty-five to forty-one, inclusive, of chapter one hundred and sixty-six of the General Laws shall apply to the corporation, to the extent the provisions of the same are apt, in the same manner and to the same extent as if it were a corporation defined as an "electric company" in section one of chapter one hundred and sixty-four of the General Laws. Sections fifty-six D and ninety-four A of said chapter one hundred and sixty-four shall not apply to contracts for the purchase of energy or capacity and output of one or more specific energy facilities entered into with the corporation by a city or town having a municipal electric department established under said chapter one hundred and sixty-four or a special act or by an "electric company" as defined in section one of said chapter one hundred and sixty-four. Except as otherwise expressly provided in this act, the provisions of said chapter one hundred and sixty-four shall not apply to the corporation.

(d) The corporation may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal social security act. If the employees of the corporation shall come within the provisions of said social security act, their employment shall be included in the term "employment" as used in sections one to seven, inclusive, of chapter one hundred and fifty-one A of the General Laws.

(e) The corporation shall have the authority to bargain collectively with labor organizations representing employees of the corporation and to enter into agreements with such organizations relative to wages, salaries, hours, working conditions, health benefits, pensions and retirement allowances, and the submission of grievances and disputes to arbitration. Chapters one hundred and fifty A, one hundred and fifty B and one hundred and fifty C of the General Laws shall apply to the corporation, to the extent the provisions of the same are apt, in the same manner and to the same extent as a private corporation. The employees of the corporation shall be exempt from the operation of chapter thirty-one of the General Laws.

(f) Wherever the corporation has primary responsibility for the construction or operation of any energy facility within the commonwealth, no contract for construction, reconstruction, alteration, remodeling, repair or demolition of the facility or equipment, supplies or materials for the facility, except in cases of special emergency involving the health, safety or welfare of the people or their property, shall be awarded unless proposals for the same have been invited by

advertisement in a newspaper published in the city of Boston, such publication to be at least one week before the time specified for the opening of said proposals. Such advertisement shall state the time and place for opening the proposals in answer to said advertisement, and shall reserve to the corporation the right to reject any and all such proposals. All such proposals shall be opened in public. No bid or contract shall be split or divided for the purpose of evading these requirements.

Sections twenty-six to twenty-nine, inclusive, and sections forty-four A to forty-four L, inclusive, of chapter one hundred and forty-nine and sections thirty-nine F to thirty-nine M, inclusive, of chapter thirty of the General Laws shall not apply to the corporation.

(g) Legislative consent is hereby given to the application to the corporation of the laws of other states with respect to taxation, payments in lieu of taxes, and the assessment thereof and to the application of regulatory and other laws of other states and of the United States in relation to the acquisition, ownership and operation by the corporation of energy facilities situated without the commonwealth pursuant to the authority granted in this act.

St.1975, c. 775, § 19.

Amended by St.1979, c. 115.

Amended by St. 2008, c. 535, §§ 16, 17, 18, 19, eff. April 16, 2009

§ 1 - 20. Annual report

The corporation shall submit an annual report in writing concerning its operation to the member cities and towns, the department, the governor and the general court within ninety days following the close of its fiscal year.

St.1975, c. 775, § 20.

§ 1 - 21. Termination or dissolution; vesting of assets

Upon termination or dissolution of the corporation, the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all bonds and other obligations of the corporation shall vest in the member cities and towns as provided in this act and the by-laws of the corporation.

St.1975, c. 775, § 21.

§ 1 - 22. Priority of act

The provisions of this act shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the corporation, member and non-member cities and towns and others by law, provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation or any limitation imposed by a corporate or municipal charter, the provisions of this act shall be controlling.

St.1975, c. 775, § 22.

§ 1 - 23. Liberal construction

This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to affect the purposes hereof.

St.1975, c. 775, § 23.

§ 1 - 24. Severability

The provisions of this act are severable, and if any provision hereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

St.1975, c. 775, § 24.

§ 1 - 25. Termination

The Massachusetts Municipal Wholesale Electric Company shall continue its existence as organized under the provisions of chapter one hundred and sixty-four of the General Laws until the board of nine directors are elected and appointed as provided in section four (a) of this act, and thereupon, upon acceptance of this act by the trustees of the Massachusetts Municipal Wholesale Electric Company Trust and by vote of the then board of directors of the corporation elected in accordance with the provisions of chapter one hundred and sixty-four of the General Laws, the trust shall terminate and all shares of capital stock in the corporation shall be deemed to have been redeemed and cancelled, and no shares shall thereafter be issued or reissued by the corporation.

St.1975, c. 775, § 25.

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