



# OLR RESEARCH REPORT

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## MUNICIPALIZATION OF ELECTRIC SYSTEMS

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You asked for a description of the law regarding municipalization of electric systems. You also wanted to know whether there have been any recent cases where a municipality has acquired an electric system.

### SUMMARY

[CGS §§ 7-213](#) to [7-233](#) (chapter 101) specify how a municipality can establish and operate a municipal electric or gas utility. The municipality can buy or lease an existing electric system under these provisions. These provisions do not allow a municipality to acquire an existing system by condemnation (eminent domain). Instead, if a municipality establishes a municipal utility, the local electric company can require the municipality to buy its facilities. On the other hand, [CGS § 7-148](#) gives municipalities broad condemnation powers, which might permit taking an existing system by eminent domain.

In most cases, the sale or lease of an essential part of an electric or gas company's plant or equipment requires the approval of the Department of Energy and Environmental Protection (formerly the Department of Public Utility Control).

Creating a municipal utility requires a two-thirds vote of the municipality's legislative body, approval of its chief executive officer, and approval of the voters at a referendum. The resulting municipal utility must be administered by a board of commissioners. The municipality can adopt ordinances governing the system's operations and issue bonds to pay for its capital costs. [CGS § 7-222](#) specifies how the utility's rates must be determined.

Most of the existing six municipal electric utilities were created in the early part of the 20<sup>th</sup> century (Jewett City's utility was created in 1897). Several were created by special act rather than the statutory provisions described above.

The only recent case where a municipality has acquired an electric system occurred in 1995, when Groton Utilities purchased the Bozrah Light and Power (BL&P) Company for approximately \$5.5 million. The company's owners had put it up for sale and negotiated the purchase with Groton Utilities, in part to ensure the continued employment of its staff. BL&P is a wholly owned subsidiary of Groton Utilities. It currently serves 3,000 customers in Bozrah, Franklin, Lebanon, Montville, and Salem.

## **LAW ON MUNICIPALIZATION**

[CGS § 7-213](#) to [7-233](#) specify how a municipality can establish and operate a municipal electric or gas system. Specifically, the law allows a town, city, or borough to buy, lease, or build plants for the distribution of electricity or gas, among other things, and maintain these plants. Table 1 summarizes the major provisions of the statutes. Plants include land, generation facilities, poles, conductors (wires), and pipes.

These provisions were originally adopted in 1893 and have had relatively few substantive changes since then. The law contains a number of archaic provisions. For example, it refers to the "manufacture" of gas, reflecting the fact that when the law was adopted gas was produced by distilling coal. The statutes also specifically apply to plants used to create or distribute gas or electricity "for lighting purposes."

**Table 1: Key Provisions of CGS §§ 7-213 to 7-233**

<b>Section(s)</b>	<b>Provision</b>
<a href="#">7-213</a>	Allows municipalities to establish electricity and gas plants and defines “plant” to include production and distribution facilities. Establishment can be by the purchase or lease of an existing plant or construction of new plants.
<a href="#">7-214</a>	To create a municipal utility requires a two-thirds vote of the municipality’s legislative body, approval of its chief executive officer, and approval of the voters at a referendum where at least 15% of the voters participate.
<a href="#">7-216</a>	Requires the legislative body to appoint a board of commissioners to administer the utility and specifies the board’s powers and responsibilities.
<a href="#">7-217</a>	Allows the municipality to issue bonds with terms up to 30 year to rebuild, extend, or enlarge the plant.
<a href="#">7-217a</a>	Allows the municipality to issue temporary notes for capital projects and the purchase of energy and capacity (the availability of generation plants, analogous to the retainer paid an attorney). Notes for capital projects can be renewed for up to 15 years.
<a href="#">7-218</a>	Allows the municipality to reconstruct or enlarge plants.
<a href="#">7-219</a>	Allows municipality to assess property owners for distribution facilities that serve them.
<a href="#">7-220</a>	Specifies circumstances when the municipal utility must serve individuals and businesses in the municipality.
<a href="#">7-221</a>	Establishes accounting requirements for the utility.
<a href="#">7-222</a>	Specifies how the utility’s rates are set, capping the utility’s profit at 8%. Allows the utility to demand a security deposit equal to three months’ consumption.
<a href="#">7-223</a>	Allows municipality to adopt ordinances governing the utility’s employment practices and operation of its facilities.
<a href="#">7-224 to 231</a>	Requires the municipality to buy the plant owned by an electric or gas company serving the municipality if the company chooses to sell. Specifies how the price of the plant is determined and establishes a procedure to resolve disputes on valuation.
<a href="#">7-232</a>	Makes municipal liable for injuries and damages caused by the plant’s operations as though it were owned by a private party.
<a href="#">7-232a</a>	Allows a municipal utility, whether created under these provisions or special act, to withhold commercially valuable, confidential, or proprietary information from disclosure under the Freedom of Information Act.

As noted above, [CGS § 7-213](#) allows a municipality to purchase or lease existing facilities but does not authorize a municipality to take the facilities, i.e., acquire them by eminent domain. On the other hand, [CGS § 7-148](#) allows municipalities to take any real or personal property for “the purposes of the municipality or any public use or purpose.” It is not clear whether the provision of electric service to the municipality’s residents falls within these categories, although the same section explicitly allows municipalities to provide for the lighting of street, highways, and other public places.

Under [CGS § 16-43](#), any sale or lease of any essential part of an electric or gas company's plant or equipment requires the approval of the Department of Energy and Environmental Protection (formerly the Department of Public Utility Control). The disposition must be by auction or other public sale, unless the department authorizes an alternative sales process. These provisions do not apply to sale of improved property with an appraised value of up to \$250,000 or unimproved property with an appraised value of up to \$50,000.

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