

APPLICATION
OF
THE NEW BRUNSWICK ELECTRIC
POWER COMMISSION
TO THE
INTERNATIONAL JOINT COMMISSION

FOR PERMISSION TO CONSTRUCT
AND OPERATE CERTAIN PERMAN-
ENT WORKS IN AND ADJACENT
TO THE CHANNEL OF THE RIVER
SAINT JOHN, IN THE PROVINCE
OF NEW BRUNSWICK,
AT GRAND FALLS.

J. D. P. LEWIN,
Solicitor for Applicant.

TO THE HONOURABLE THE
INTERNATIONAL JOINT COMMISSION.

APPLICATION MADE BY THE NEW
BRUNSWICK ELECTRIC POWER COMMIS-
SION (hereinafter called the Applicant) for
permission to construct and operate certain per-
manent works in and adjacent to the channel of
the River St. John in the Province of New Bruns-
wick at a point on the said River known as Grand
Falls;

RESPECTFULLY SHEWETH:

1. STATUS OF THE APPLICANT.

The Applicant is a Commission duly appointed
by the Lieutenant-Governor-in-Council of the
Province of New Brunswick pursuant to Acts of
Assembly of the said Province, 1920, chapter 53,
whereby the Commission is empowered inter alia
as follows:

“9. The Lieutenant - Governor - in - Council,
upon the report of the Commission recommending
the same, may authorize the Commission to,—

“(1) Construct, maintain and operate
works, machinery and plant for generating
electrical energy from water power, coal, peat,
gas, oil or any other source, and for trans-
mitting the same;

“(2) Acquire by purchase, lease or other-
wise, or without the consent of the owner
thereof, or of any person interested therein,
enter upon, take possession of, expropriate and
use,—

“(a) Coal, peat, gas, oil;

“(b) Land, mines, quarries or wells capable of producing coal, peat, gas, oil or any other material adapted for the generation of electrical energy; and use or develop the same for the purpose of generating electrical energy under this Act;

“(3) Acquire by purchase, lease or otherwise, or without the consent of the owner thereof, or of any person interested therein, enter upon, take possession of, expropriate and use land, waters, water privileges, water powers, works, machinery and plant, developed, operated, used or adapted for generating electrical power or energy from water power, coal, peat, gas, oil or any other source, and for the transmission thereof in New Brunswick; and develop, enlarge, reconstruct and use the same for any purposes of this Act;

“(4) Construct, maintain and operate and acquire by purchase, lease or otherwise, or without the consent of the owner thereof, or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant and other works and appliances for the transmission of energy and distribution of electrical power or energy, and conduct, store, transmit and supply electrical power or energy for the purposes of this Act, and with lines of wires, poles, conduits, motors or other conductors or devices, receive, conduct, convey, transmit, distribute, supply or furnish such electrical power or energy to or from any person at any place, * * * * *

The Applicant in accordance with the said Act has reported and recommended to the Lieutenant-Governor-in-Council of the Province of New Brunswick the construction of certain works at Grand Falls as hereinafter described and by Order-in-Council passed the ninth day of December, A. D. 1924, has been duly authorized to proceed with the said work.

2. GENERAL DESCRIPTION OF PROJECT.

The Applicant proposes to develop the natural water power at Grand Falls for the purpose of producing and transmitting hydro-electric power to meet the present and future requirements of the Province of New Brunswick.

The project, as now conceived and planned, will, with the coincident construction of storage dams at various points within the tributary basin, have an ultimate capacity of upwards of seventy thousand continuous electrical horse power, the higher ranges of capacity being contingent upon the ultimate extent to which the dependable flow of the St. John River above Grand Falls may in the future be progressively increased, through the agency of artificial storage, to meet the growth of the demand for hydro-electric power.

The power site of Grand Falls lies wholly within the Province of New Brunswick, about three miles below the point at which the line of the International Boundary intersects the medial thread of the River St. John, and all the works and structures incidental to the initial phases of the project are in Canadian territory.

The power thus developed will be delivered through a high voltage transmission system to all

the settled portions of the Province, and it is anticipated that not only will the entire population benefit thereby, through the availability of a cheap, safe and sanitary source of energy for light and domestic service, but that also the power supply thus made available will stimulate industrial development as a whole, and more particularly supply the means, hitherto lacking, of converting the great mineral and wood resources of New Brunswick into finished articles of commerce within her own boundaries.

Plan No. I herewith submitted shows in red the settled portions of the Province and the location of the high voltage loop through which they will be served. The transmission lines follow in general the main transportation routes within the province. This plan also shows the river systems, and by means of it the basic conception is readily visualized; namely, the flow of raw commodities from the unsettled interior to rural and urban centres where, through the agency of electrically operated mills and factories, they will be converted into finished products.

Plan No. II is a map of the watershed area above Grand Falls showing the main stream with its tributaries and natural lake areas, and also the location of the International Boundary and the various state and provincial boundaries.

3. DESCRIPTION OF WORKS.

Plan No. III indicates the general scheme of the proposed works.

MAIN DAM.—The main dam located in the St. John River a short distance above the crest of

Grand Falls, when constructed, will consist of eight piers and two abutments, the latter connected with the shores to points above high water mark by means of retaining walls. The piers will have a width of fourteen feet, and a maximum length of sixty feet, and will be so spaced as to provide nine openings each forty-eight feet in width, extending approximately to the present bed of the River and equipped with nine movable sluice gates. This structure is shown in detail on Plan No. XII.

INTAKE.—The intake or entrance structure will be situated on the right shore of the St. John River immediately upstream from the main dam, previously described, and will consist of a series of piers carrying a curtain wall, partially submerged, for protection against floating ice and timber. The total area of all openings through this structure will be such as to maintain the velocity of the entering water at not more than three feet per second.

The inner basin in the rear of the curtain wall will be shaped to attain a reduction in width to the dimensions of the conduit leading therefrom to the generating station.

CANAL, FOREBAY AND GATEHOUSE.—The canal leading from the entrance structure to the forebay will be constructed along the margin of the River around the Town of Grand Falls, excavated for the most part in rock, and concrete lined, and of such dimensions as to maintain the velocity of the water carried, at not more than eleven feet per second. The proposed canal to be thirty-four hundred feet in length and discharging into a forebay three hundred feet in length, the latter

increasing to a suitable width at the downstream end, for the proper distribution of the water through the gatehouse to the several units to be installed in the generating station. Provision will be made for a regulating spillway along the side of the forebay. The proposed gatehouse will be a concrete structure and will contain openings leading to the penstocks. Each opening will be provided with gates and racks. The gatehouse will also be provided with suitable devices for the handling of the equipment and the disposal of ice and refuse.

TUNNEL AND GATEHOUSE OR VALVE CHAMBER.
—An alternative method of delivery of the water to the generating station is submitted. A rearrangement of the entrance structure and inner basin is shown, and a tunnel leading therefrom to the gatehouse or valve chamber above the generating station. This tunnel will be excavated in rock and concrete lined, and will be approximately twenty-two hundred feet in length and designed for a maximum velocity of approximately twelve feet per second. The tunnel will terminate in the gatehouse or valve chamber. The gatehouse or valve chamber will be of such dimensions as to provide for proper distribution of flow to the several generating units, and will contain suitable valves and auxiliary equipment including a surge tank for purposes of regulation.

PENSTOCKS AND GENERATING STATION.—Separate penstocks will convey the water from the gatehouse or valve chamber, under either alternative as described herein, to the hydraulic turbines located in the generating station situated on the

margin of the lower basin. The penstocks will be of riveted steel anchored in concrete, and of such diameter as to provide for a velocity of not more than twelve feet per second. The penstocks will be provided with valves for control of the flow and protection of the plant.

The generating station will be of concrete and steel construction and will house the hydraulic turbines, auxiliary machinery, generators, switching and transforming equipment. Suitable means for delivery and erection of all machinery will form part of the installation.

The initial installation will consist of two units, each having a capacity of at least twenty thousand horse power, with provision for extension of the plant as required.

The water used will be delivered to the lower basin by means of draft tubes and a trailrace, the latter to be excavated in the foreshore and bed of the River at the site of the generating station.

4. EFFECT OF PROPOSED WORKS ON INTERNATIONAL WATERS.

By means of the main dam above described it is proposed to hold the upstream pondage at an operating level corresponding to high water mark at Grand Falls, but at no time above such elevation.

During the freshet period, the river will rise to high water stage through the ordinary natural process as heretofore, but during the low water period the effect of the dam at Grand Falls will be to still maintain the high water stage in the immediate vicinity of the dam, and pond the water back for about thirty-two miles at an elevation some-

what above low water mark, but at the same time always below high water mark. The condition described is plainly indicated in the profile sheet, Plan No. IV, submitted herewith.

The upper profile on this sheet indicates the position taken by the water surface during the period of high water flow. As previously mentioned, this purely natural condition will not be interfered with by the proposed dam.

On the same sheet is shown, first, the natural profile of the water surface under minimum and normal summer stages, and, second, the upstream pondage level which will result from maintaining high water level at the dam itself during all stages of flow.

It will be seen that at the point where the ponded flow meets the international boundary, it is about sixteen feet above the natural minimum, and about four feet below the natural maximum water level. This relationship is seen to become gradually modified as the pondage extends upstream, until at Van Buren, Maine, the ponded level is only twelve feet above low water mark, and about fourteen feet below the natural maximum water level, and finally reaches a point near St. Basil, N. B., where the two levels coincide.

It is therefore evident that the only land adversely affected at any point within the ponded reach is the riparian strip between low and high water mark. The total area actually submerged at low stages of the river is eight hundred acres of which four hundred acres are in Canada and four hundred acres are in the State of Maine. This area includes, in addition to arable lands, a considerable acreage of sand and gravel bars exposed at periods of low discharge. The extent to which

arable lands below high water mark are affected is more clearly shown on Plans No. V to XI inclusive, these being large scale plans covering successive portions of the ponded reach and upon which are shown the contours on both banks of the River, and a flow line in red showing the relative positions of the present permanent shore lines and the new shore lines which will result from the creation of the proposed pondage.

The Applicant is fully aware of the fact that the above described use of international waters is subject to a prior right in respect of navigation and other uses, and in connection with the same it is submitted that the proposed raising of the level in the ponded reach, together with the general improvement in flow regulation, through the agency of artificial storage, will jointly effect a more efficient dilution of sewage wastes, provide a purer and more abundant water supply at all stages of flow, and improve navigation not only in respect to ferries and other small craft on the ponded reach, but on all sections of the St. John River below the confluence of tributaries whereon storage dams may be located.

The progressive development of artificial storage will likewise in corresponding degree reduce flood damage and promote the interests of log driving by extending the season, improving the difficult reaches, and providing greatly improved facilities for booming and sorting.

Inasmuch as the project in question involves the placing of an obstruction in waters below the international boundary which will affect the level of waters above the boundary, and flowing across the same, it is the opinion of the Applicant that your Honourable Commission may have jurisdic-

tion in the premises, under the terms of Article IV of the Boundary Waters Treaty.

This Application is therefore respectfully submitted for your consideration.

The enabling legislation under which the New Brunswick Electric Power Commission exists and functions is set forth in full under Appendix I herewith.

The specific authority under which this Application is submitted is set forth in an order of the Lieutenant-Governor-in-Council dated the ninth day of December, 1924, copy of which is attached under Appendix II.

PETITION.—The Applicant does now pray for such order, ruling or decision, authorizing and empowering the Applicant to proceed with the said works, as may in the opinion of your Honourable Commission be required by the “Waterways Treaty Act,” together with such provisos as may be deemed fitting in the premises.

All of which is respectfully submitted,

J. D. P. LEWIN,
*Solicitor for the
New Brunswick Electric Power Commission.*

SAINT JOHN, N. B.,
January 15th, 1925.

APPENDIX I.

THE
NEW BRUNSWICK
ELECTRIC POWER ACT

10 GEO. V., CHAPTER 53

AND AMENDMENTS THERETO.

Act re generation and distribution of Electric Power.

Be it enacted by the Lieutenant-Governor and
Legislative Assembly, as follows:

1. This Act may be cited as "The New Brunswick Electric Power Act, 1920."

2. "In this Act, except where the context otherwise requires, the expression 'municipality' includes a municipality, a city, an incorporated town, and a village as interpreted by Section 2, sub-section 2, of the Villages Incorporation Act."

3. For the purposes hereinafter mentioned, there shall be a Commission or three persons appointed by the Lieutenant-Governor-in-Council, one of whom may be a Member of the Executive Council. The Commission shall be a body corporate under the name of "The New Brunswick Electric Power Commission," hereinafter called the "Commission."

4. The Lieutenant-Governor-in-Council may appoint one of the Members to be chairman of the Commission. Two Members shall form a quorum.

5. Every person appointed to be a member of the Commission shall hold office during pleasure. The Lieutenant-Governor-in-Council upon the death, resignation or removal from office of any Member of the Commission, may appoint some other person to fill his place.

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6. (1) The Chairman and Members of the Commission shall be paid such annual salaries or other remuneration as the Lieutenant-Governor-in-Council may determine, and such salaries or other remuneration shall be chargeable and payable out of such moneys as may be appropriated by the Legislature for the general purposes of the Commission, or may be standing to the credit of the Commission in the accounts of the Province;

(2) Notwithstanding anything contained in the New Brunswick Elections Act (1916), a Member of the Executive Council of New Brunswick without portfolio may be appointed Chairman or a Member of the Commission, and shall not by reason of such appointment or of any salary or remuneration connected therewith or by the acceptance thereof forfeit or vacate his seat in the Legislative Assembly of New Brunswick nor incur any of the penalties, forfeitures or disqualifications imposed by the said New Brunswick Election Act for sitting and voting as a Member of the said Legislative Assembly or of said Executive Council.

Any member of the said Executive Council with Portfolio may be appointed a member of the Commission, but not chairman thereof, but he shall not, as a member of such Commission, receive any salary or remuneration in connection therewith. No two members of the said Executive Council shall be appointed or serve as members of the said Commission at the same time.

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7. (1) The Commission may appoint a Chief Engineer and Accountant, and a Secretary, and such other engineers, accountants, officers, servants and workmen as may be deemed requisite. Said Chief Engineer or other officer may be a member of the Commission;

(2) The salaries or other remuneration of the persons so appointed shall be fixed by the Commission subject to the ratification by the Lieutenant-Governor-in-Council, and shall be payable out of any moneys which may be to the credit of the said Commission.

8. The Commission may, from time to time, make report to the Lieutenant-Governor-in-Council of:

(1) The land, water, water privileges or water powers, or the land, works, machinery and plant, or portion thereof, of any person owning or holding under lease or otherwise, or developing, operating, or using a water privilege or water power, or transmitting electrical or other power or energy in New Brunswick, which in the opinion of the Commission should be purchased, acquired, leased, taken, expropriated, developed, operated or used by the Commission for the purposes of this Act; or

(2) The quantity of the product of any person generating electrical power or energy in New Brunswick, or bringing such power or energy into New Brunswick for use or trans-

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mission therein which the Commission requires for the purposes of this Act.

9. The Lieutenant-Governor-in-Council, upon the report of the Commission recommending the same, may authorize the Commission to,—

(1) Construct, maintain and operate works, machinery and plant for generating electrical energy from water power, coal, peat, gas, oil, or any other source, and for transmitting the same;

(2) Acquire by purchase, lease or otherwise, or without the consent of the owner thereof, or of any person interested therein, enter upon, take possession of, expropriate and use,—

(a) Coal, peat, gas, oil;

(b) Land, mines, quarries or wells capable of producing coal, peat, gas, oil or any other material adapted for the generation of electrical energy; and use or develop the same for the purpose of generating electrical energy under this Act;

(3) Acquire by purchase, lease or otherwise, or without the consent of the owner thereof, or of any person interested therein, enter upon, take possession of, expropriate and use land, waters, water privileges, water powers, works, machinery and plant, developed, operated,

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used or adapted for generating electrical power or energy from water power, coal, peat, gas, oil or any other source, and for the transmission thereof in New Brunswick; and develop, enlarge, reconstruct and use the same for any purposes of this Act;

(4) Construct, maintain and operate and acquire by purchase, lease or otherwise, or without the consent of the owner thereof, or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant, and other works and appliances for the transmission of energy and distribution of electrical power or energy, and conduct, store, transmit and supply electrical power or energy for the purposes of this Act, and with lines of wires, poles, conduits, motors or other conductors or devices, receive, conduct, convey, transmit, distribute, supply or furnish such electrical power or energy to or from any person at any place, through, over, under, along or across any land, public highway or public place, stream, water, water course, bridge, viaduct or railway, and through, over or under the land of any person; provided, however, that if any of the proposed works or any part thereof, shall in the opinion of the Provincial Road Engineer, be likely to constitute an obstruction to the construction, improvement, maintenance or repair of any highway or the use thereof, it shall be the duty of the said Provincial Road Engineer to notify the said

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Commission to that effect, and after receiving the said notice the said Commission shall not proceed with the said work or with the said part mentioned in said notice without first obtaining the approval of the Minister of Public Works so to do;

(5) Contract with any person generating, transmitting or distributing electrical power or energy, or proposing to do so, to supply electrical power or energy to the Commission; and require any person generating, transmitting or distributing electrical power or energy to supply so much thereof as the Commission may require, and in case the Commission is unable to agree with such person on the amount which is to be paid for said electrical power or energy, the Board of Commissioners of Public Utilities shall have power after hearing to determine and fix the said amount;

(6) Enter upon, take, and use, without the consent of the owner thereof, or of any person interested therein, any land upon which any water power or privilege is situate, or any lake, river, stream or other body of water, which in the opinion of the Commission is capable of improvement or development for the purpose of providing water power, and to construct such dams, sluices, canals, raceways, and other works, and do all such acts, matters and things as may be deemed proper or expedient for such purposes, and flood and overflow such land as

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may be deemed necessary for the purpose of providing storage of the water, or for any other purpose in connection with such works, and contract with any municipality, corporation or individual for the use of any of the improvements or works so made, on such terms and conditions as may be agreed on, and charge such tolls for the use by any municipality, corporation or individual of the water power, or water, or improvements, or works, as the Commission may deem reasonable, having regard to the cost of acquiring such land, and of the construction, maintenance, and operation of such improvements or works;

(7) Enter upon, take and use without the consent of the owner thereof, or of any person interested therein, any land which may, in the opinion of the Commission, be deemed necessary for the full enjoyment and exercise of any water right, water privilege or improvement undertaken by the Commission or by any municipality, corporation or individual, or for the relief of a municipality from liability for damages for the flooding or overflowing of such lands;

(8) Expropriate or acquire by purchase, lease or otherwise, real and personal property of every description deemed expedient for the purposes of generating, distributing and utilizing electrical power or energy in a municipality, the Council of which has entered into an

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agreement with the Commission for the supply of electrical power or energy, and contract for the sale and transfer to such municipality of such real and personal property upon such terms, and for such price, not being less than the price paid by the Commission, with the expenses in connection with such purchase or expropriation added thereto, as may be agreed upon;

(9) Acquire by purchase or otherwise, and hold shares in any corporation carrying on the business of developing, supplying, or transmitting electrical power or energy; and where there has been any such acquisition, enter into any covenant or covenants, agreement or agreements, to pay for any such shares, either in cash or bonds, debentures or other securities of the Commission, and guarantee or covenant or agree for in respect of the payment or performance of any bonds, debentures, securities, contracts or obligations of any company, shares in which are so acquired, or of any company, shares in which are held by any company, in which shares are so acquired;

(10) Lease or operate the works for the generation, transmission, distribution or use of electrical energy of any person, firm or corporation on such terms as the Commission may arrange with the owner;

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(11) Expropriate or acquire by purchase, lease or otherwise,—

(a) Any buildings and lands deemed necessary by the Commission for office, service or other buildings; and

(b) Any equipment and appliances deemed necessary by the Commission for the purpose of this Act;

(12) Contract with a railway company or power or transmission company for the use of its right of way and property for the erection of works and other constructions for transmitting electrical power or energy;

(13) Make such rules and regulations as may be deemed expedient for the purpose of fully carrying out the true intent, purpose and object of this Act and of any contract made under it, and impose a penalty for the violation of any such rule or regulation of not less than Ten Dollars or more than Five Hundred Dollars, for every day during which the violation continues, such penalties to be recoverable on summary conviction, and when recovered to be paid over to the Commission.

10. (1) Whenever the Commission is authorized by the Lieutenant-Governor-in-Council to exercise any of the expropriation powers mentioned in the Act, the Commission may proceed as follows:

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(a) If the expropriation proceedings concern the taking of land or any interest therein or any works affixed to any land, such land shall be laid off by metes and bounds, and when no proper deed or conveyance thereof is made and executed by the person or persons having the power to make such deed or conveyance, or when any person interested in such land is incapable of making such deed or conveyance, or when for any other reason the Commission deems it advisable to do so, a plan or plans of such land signed by the Chairman of the Commission or the Chief Engineer of the Commission shall be fyled in the office of the Registrar of Deeds for the County in which such land is situated, and the land or lands so designated in said plan or plans shall thereupon become and remain vested in the Commission. In case of any omission or misstatement in such plan or plans, or in case any change is made after the fyling of said plan or plans, a corrected or altered plan may be fyled with the said Registrar with like effect;

(b) In case of any lands which have heretofore been taken by the Commission, and in which a notice has been served for the expropriation thereof under the said the New Brunswick Electric Power Act, 1920, a plan or plans may be fyled in a like manner at any time and shall have a like effect as if fyled before the entry of the Commission in and upon the said lands or the serving of the said notice,

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saving always the lawful claims to compensation of all persons interested therein as provided by this Act;

(c) When any land taken is required for a limited time only, or a limited estate, right or interest only is required therein, the plan so fyled shall indicate by appropriate words written or printed thereon, that the land is taken for such limited time only, or that such limited estate, right or interest only is taken, and by the fyling of the plan in such case the right of possession for such limited time or such limited estate, right, or interest shall thereupon become and be vested in the Commission;

(d) In all cases where any plan fyled as aforesaid purports to be signed by the Chairman of the Commission, or the Chief Engineer of the Commission, the same shall be deemed to have been so fyled by the direction and authority of the Commission, and shall be deemed conclusively as indicating that in the judgment of the Commission the land therein described and the rights thereon indicated are necessary for the purposes of the Commission, and the said plan shall not be called into question except by the Commission;

(e) A copy of such plan purporting to be certified by the Registrar of Deeds or his deputy as a true copy thereof, and of the date of the fyling thereof, shall without proof of the

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official character and signature of such Registrar or Deputy, be deemed and taken in all cases as prima facie evidence of the original and of the fying thereof and of the date of said fying;

(f) The Commission may at any time after the fying of the aforesaid plan, serve upon the owner of the land or interest therein or works so taken, a notice, which notice shall contain: (1) A description of the lands or interest therein or works taken with the powers to be exercised with regard to said lands or works (describing them); (2) A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or interest or works or other such damage.

(2) If the expropriation proceedings concern any other matter or thing which may be taken without the consent of the owner thereof, as provided by Section 9 of this Act, whenever the Commission deem it advisable to do so, a notice specifying generally the property taken, signed by the Chairman of the Commission, the Chief Engineer of the Commission, shall be fyled in the office of the Registrar of Deeds for the County in which the property is situate, and such property shall thereupon become and remain vested in the Commission, and after the fying of such notice a notice shall be served upon the owner of the same which shall contain; (a) a designation of the matter or thing so to be taken, sufficient to identify

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the same, (b) a declaration of willingness to pay some certain sum as compensation for such matter or thing so to be taken;

(3) The notice shall be accompanied by the certificate of a sworn Surveyor or Civil Engineer disinterested in the matter to the following effect:

(a) That the land or interest therein or works or other matter or thing mentioned in the said notice is required for the purposes of the Commission;

(b) That he knows the said land, works, matter or thing, and the amount of damages likely to arise from the exercise of the powers;

(c) That the sum so offered is in his opinion fair compensation for the land or interest so to be taken therein, or for the said works, matter or thing, and for the damages as aforesaid.

(4) If the said owner is absent from the county in which the lands or works lie, or said matter or thing is situate, or is unknown, then upon application to a County Court Judge accompanied by such certificate as aforesaid, and by affidavit that the said owner is so absent, or that after diligent inquiry the party on whom such notice ought to be served cannot

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be ascertained, the Judge shall order a notice as aforesaid, but without a certificate, to be inserted three times in the course of one month in some newspaper, if there is any published in the county, and if no newspaper is published in the said county, then by inserting such notice in three consecutive issues of the Royal Gazette;

(5) If within ten days after service of such notice, or within one month after the first publication thereof, the owner does not give notice to the Commission that he accepts the sum offered by it, the Commission may apply for the assessment of damages:

(a) If the amount of damages mentioned in the said certificate exceeds Five Hundred Dollars (\$500), the said Commission shall apply to a Judge of the Supreme Court;

(b) If the amount of damages mentioned in the said Certificate does not exceed Five Hundred Dollars (\$500), the said Commission shall apply to the County Court Judge for the County in which the lands or works lie or said matter or thing is situate. In case the said land or matter or thing shall be situate partly in one County and partly in another or others, and the amount of damages for the whole mentioned in said certificate does not exceed Five Hundred Dollars (\$500), then in that case the

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application may be made to a Judge of the County Court for any County in which any part of same may be situate, and said Judge shall have jurisdiction to assess damages for the whole of the said land, matter or thing. If the said County Court Judge is interested, or for any other reason cannot act, he shall designate some other County Court Judge to act in his stead.

Upon the application being so made by the said Commission, the said Judge of the Supreme Court or of the County Court, as the case may be, shall by order designate himself the sole arbitrator, and the said Judge so designated shall thereupon become and be the sole arbitrator for determining the compensation to be paid as aforesaid.

(6) Six days' notice of the time of hearing the application for assessment shall be given by the Commission to the said owner;

(7) If the owner is absent from the county in which the lands lie, or said works, matter or thing is situate, or is unknown, service of such notice may be made by advertisement as authorized by sub-section (4), provided that the Judge may dispense with the publication of the notice or shorten the time or times therefor in any case in which he deems it proper;

(8) The Arbitrator shall proceed to ascertain the compensation in such way as he may

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deem best, but no award shall be made or any official act done by him except at a time and place of which the Commission and the owner have had at least two clear days' notice, or to which some hearing at which the parties had been present, or of which the parties had been notified had been adjourned;

(9) If the sum awarded is not greater than that offered, the costs of the arbitration shall be borne by the owner and be deducted from the compensation, but if otherwise they shall be borne by the Commission, and in either case they may, if not agreed upon, be taxed by the Arbitrator;

(10) The Arbitrator in deciding on such value or compensation for lands taken, or any interest therein, shall take into consideration the increased value that will be given to any remaining lands of the owner by reason of the construction of the works of the Commission, and shall set off the increased value that will attach to said lands against the inconveniencing, loss or damage that might be suffered or sustained by reason of the Commission taking the possession of or using the lands as aforesaid;

(11) The Arbitrator may examine on oath or solemn affirmation the parties or such witnesses as appear before him, and may administer such oath or affirmation;

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(12) Any party to an arbitration under this chapter may, without leave or order, obtain and issue, out of the Court of which the Arbitrator before whom the arbitration is pending is a Judge, upon praecipe, setting forth the names of the witnesses to be subpoenaed, the name of the Arbitrator and the place and time of meeting, a subpoena commanding the attendance for examination of any witness, and also the production of any document touching the matter in question, to or before the Arbitrator, and at the time and place mentioned in the said subpoena, and disobedience of such a subpoena shall be deemed contempt of Court and shall be punishable in the same manner and to the same extent as in the case of subpoenas issued in a civil case;

(13) The same fees shall be payable for such subpoenas as in the case of subpoenas issued in civil cases, and the witnesses shall be entitled to like conduct money;

(14) The Arbitrator shall take down the depositions of witnesses in writing, or cause the same to be taken by a stenographer duly sworn before said Arbitrator, who, after making his award, shall deliver or transmit the same, by registered letter, together with the depositions, the exhibits referred to therein and all other papers connected with the reference to the Registrar or Clerk of the Court of which the Arbitrator making the award is a member, to be filed as of record by such Registrar or Clerk;

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(15) The Arbitrator at the time of his appointment shall fix a day on or before which the award shall be made, and if the same is not made on or before such day, or a day to which the time of making it has been prolonged, either by the consent of the parties or by the order of the Arbitrator (as it may be for reasonable cause shown), then the sum offered by the Commission shall be the compensation to be paid;

(16) (a) If the arbitration proceedings have been commenced before a Judge of the Supreme Court, and the Arbitrator dies before the award has been made, the Commission may apply to any other Judge of the Supreme Court in the manner provided by sub-section (5), as enacted by Section 2 of Chapter 21, 12 George V. (1922), for the appointment of an Arbitrator, and such Judge shall have the same powers and be subject to the same duties as an Arbitrator designated under said sub-section (5). If the arbitration proceedings have been commenced before a Judge of the County Court and the Arbitrator dies before the award has been made, the Commission may apply to any Judge of the County Court of the Province, in the same manner as is provided by said sub-section (5), for the appointment of an Arbitrator and such Judge shall have the same powers and be subject to the same duties as an Arbitrator designated under said sub-section (5).

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This sub-section shall apply to all proceedings already commenced and not yet concluded, as well as to any proceedings to be hereafter commenced;

(17) Any notice for any lands, works, matter or thing, as aforesaid, may be desisted from, and a new notice given with regard to the same or other lands, works, matter or thing, to the same or any other party, but in such case the liability to the party first notified for all damages and costs by him incurred in consequence of such notice and desistment shall subsist;

(18) The Arbitrator shall not be disqualified by reason that he is related or of kin to any member of the Commission, provided that he is not himself personally interested in the amount of the compensation;

(19) The validity or invalidity of any cause of disqualification shall be summarily determined by the Judge on the hearing of the application mentioned in sub-section (5);

(20) No award made as aforesaid shall be invalidated from any want of form or other technical objection, if the requirements of this section have been complied with, and if the award states clearly the sum awarded, and the lands or property, right or thing for which such sum is to be the compensation, nor shall it be

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necessary that the party or parties to whom the same is to be paid be named in the award;

(21) Any party to the arbitration may, within one month after receiving a written notice from the Arbitrator of the making of the award, appeal therefrom upon any question of law or fact to the Appeal Division of the Supreme Court, and upon the hearing of the Appeal the Supreme Court shall if the same is a question of fact, decide the same upon the evidence taken before the Arbitrator as in the case of original jurisdiction. The decision of the said Court shall be entered as a judgment of the said Court and may be dealt with in the same way as a judgment of the said Court;

(22) Notwithstanding anything contained in this Act or in any Act of the Legislative Assembly, the Commission shall have the right, without the consent of the owner to enter upon any property and take and use the same before the compensation therefor is paid or before any proceedings are instituted to determine the compensation.

11. For greater certainty, but not so as to restrict the general powers conferred on the Commission by or under the authority of this Act, it is declared that such powers shall include the right to enter upon any land on either side of the right of way acquired for the transmission or distribution lines or works of the Commission, and to fell or remove any trees, other than shade and ornamental

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trees, or any branches of any tree or any other obstruction upon such land, or upon any public highway or place which in the opinion of the Commission it is necessary to fell or remove, but subject always to the payment of such compensation as may be agreed upon. If the Commission is unable to agree with the owner or other party interested, the amount shall be settled by arbitration in the same manner as provided by section 10 of this Act.

12. The Commission may sell and dispose of any part of the lands purchased or acquired under the Provisions of this Act which may be found unnecessary for the purposes of the Commission.

13. Expropriation powers conferred by this Act shall extend to land, works, rights, powers, privileges and property, notwithstanding that the same are or may be deemed to be devoted to a public use, or that the owner thereof possesses the power of taking land compulsorily;

(1) Notwithstanding anything contained in any Act of Assembly, a grant or grants under the Great Seal of the Province of New Brunswick, of any Crown land required by the said Commission for transmission or distribution lines or other works of the Commission, may be issued to the said Commission, upon payment by the said Commission, of such price or consideration for such lands as may be fixed and determined by the Lieutenant-Governor-in-Council of the Province of New Brunswick.

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14. All special funds and the income and revenue thereof, and all moneys and revenues which shall come into the hands of the Commission, whether as agent, trustee, owner or otherwise, shall be paid to the Provincial Secretary-Treasurer, who shall keep same in a special account. Any and all expenditures may from time to time, be made out of the said account for the purposes and objects of the Commission without regard to the special trusts or purposes under which the same or any part thereof may come to its hands, and the Provincial Secretary-Treasurer shall account for, and from time to time, pay out of the said account all moneys for which the Commission shall be so accountable.

15. The Provincial Secretary-Treasurer may retain and set apart out of the moneys coming into his hands from time to time on account of the Commission such sums as may, in the opinion of the Commission be sufficient,—

(1) To provide for the renewal, reconstruction, alteration and repair of the works constructed and operated by the Commission;

(2) To meet interest upon working capital and for the operations of the Commission under this Act, and to meet obligations, charges, salaries and expenses arising from time to time in the course of such operations;

(3) To meet any unforeseen expenditures or costs caused by the destruction or injury of

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any of the works of the Commission or otherwise incurred or payable by the Commission;

(4) Any surplus remaining in the hands of the Provincial Secretary-Treasurer after providing for the payments provided for in the preceding sub-sections (1), (2) and (3) of this Section, shall be appropriated to such purposes as the Lieutenant-Governor-in-Council may, from time to time, direct, and generally to maintain such reserve, depreciation and surplus accounts as should be maintained by a properly managed public utility.

16. The Commission shall, before the first day of January in each year, make to the Lieutenant-Governor-in-Council an annual report which shall contain among other things clear and comprehensive statements disclosing and exhibiting,—

(1) The actual condition as to the amount and character of the assets and liabilities of the undertakings conducted by it as on the 31st day of October last preceding;

(2) Statement of the capital costs of each system operated by the Commission with capital investments of a non-operating character comprised in the same;

(3) Statement with respect to each system or works operated or controlled by the Commission showing the accumulated,—

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(a) Operating surplus or deficit (excluding charges for sinking fund payments and reserves for renewals) of same;

(b) Charges made for reserves or renewals against same;

(c) Charges made for sinking fund requirements to each municipality comprised in such system and the accumulated surplus or deficit of each such municipality on October 31st in each year, also the date when sinking fund payments were first made by it;

(4) Amount of profits earned by each system by sale of power;

(5) Statement of amounts of the indebtedness due or owing by the municipalities or other corporations or persons to the Commission in respect of —

(a) Construction of works undertaken and for services rendered;

(b) Power bills;

(c) Debts of other nature, if any, where such debts are three months or more overdue. And such other matters as may appear to be of public interest in relation to the said Commission or its works.

17. The accounts of the Commission shall, from time to time and at least once every year, be

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audited by the Comptroller General or by other auditor or auditors appointed by the Lieutenant-Governor-in-Council.

18. Whenever required by the Lieutenant-Governor-in-Council so to do, the Commission shall make investigations and collect and record data concerning the power industry and its relation to other industries and concerning the location, capacity, development, costs and relation to markets, of power sites, and of power developments with such other information as the Lieutenant-Governor-in-Council may require.

19. The Lieutenant-Governor-in-Council may, from time to time, raise by way of loan such sums as are deemed necessary for the purposes of this Act, not however to exceed in the aggregate the sum of Three Million Eight Hundred Thousand Dollars, and such sums shall be kept by the Provincial Secretary-Treasurer in an account to the credit of the Commission, and shall be accounted for and audited in the manner provided with respect to the management of the public revenue and public accounts, and such loans shall be subject to the provisions of the Provincial Loans Act, Chapter 4 of the Acts of the Legislative Assembly, 9 Edward VII.

20. All sums received by the Commission shall be accounted for to the Provincial Secretary-Treasurer, and shall be paid over to the Provincial Secretary-Treasurer, to be applied from time to time in the manner provided by this Act.

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21. Where the Legislature has appropriated moneys for the purposes of the Commission, the same shall be placed to the credit of the Commission on the books of the Province, and shall be paid out upon the Order of the Lieutenant-Governor-in-Council, from time to time, upon the requisition of the Commission, and this section shall have effect notwithstanding that there may be sums due from the Commission to the Province, and notwithstanding anything in the Audit Act, 1918, contained.

22. The Lieutenant-Governor-in-Council may, on behalf of the Province of New Brunswick, enter into any covenants or agreements in connection with the acquisition by the Commission of any shares in any corporation, and guarantee the observance and performance by the Commission of any contract or agreement of the Commission in relation to such acquisition; provided, however, that the said Commission shall not enter into any such contract for the acquisition of said shares unless the said contract shall be for a majority of the shares of any said corporation.

23. The Lieutenant-Governor-in-Council may guarantee the repayment of advances made by banks or any other indebtedness incurred by the Commission.

24. The Provincial Secretary-Treasurer shall annually appropriate out of the moneys to the credit of the Commission such interest on the indebtedness of the Commission to the Province

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for moneys advanced to the Commission by the Province as may be, from time to time, sufficient to reimburse the Province the full amount of interest paid by the Province on moneys raised for the purposes of the Commission and all charges incurred by it in providing such moneys.

25. Without the consent of the Attorney-General, no action shall be brought against the Commission or against any member, servant, agent or employee thereof, for anything purporting to be done or omitted to be done in the exercise of his or their office or employment, for anything done in carrying on the work of the said Commission.

26. Neither the Province nor the Commission nor any member thereof shall incur any liability by reason of any error or omission in any estimates, plans or specifications prepared or furnished by the Commission.

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PART II.

Supply of Power to Municipalities.

27. (1) Any municipality may apply to the Commission for the transmission and supply to the municipality of electrical power or energy for the use of the municipality and inhabitants of the municipality for lighting, heating and power purposes;

(2) The Commission shall thereupon furnish to the municipality a statement of the price per horse power at which the electrical power or energy will be supplied to the municipality, and an estimate of the cost of constructing or providing a transmission line by means of which the amount of electrical power or energy required by the municipality is to be supplied, and of maintaining the same, and may furnish to the municipality plans and specifications of the works, plant, machinery and appliances necessary for the distribution of such power or energy by the municipality, and an estimate of the cost thereof, and such other information as the Commission may deem advisable;

(3) The municipality may thereupon enter into a contract with the Commission for the supply of electrical power or energy for the purposes mentioned in this Act. Such con-

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tract may contain such terms, conditions, stipulations, covenants and agreements as the Commission and the municipality agree upon;

(4) The contract shall be binding upon the municipality when but not before it has been approved by the Lieutenant-Governor-in-Council;

(5) After the contract has been executed by the municipality and approved by the Lieutenant-Governor-in-Council, the Commission may carry out and perform the same, and shall have power and authority to do all acts necessary for that purpose;

(6) A municipality which has entered into a contract with the Commission under this Act, may from time to time with the approval of the Commission, contract with any other municipality or with any person or corporation for the supply or distribution of electrical power or energy, and such other municipality shall have authority to enter into the contract; but a municipality shall not exercise the power conferred by this section in another municipality without the consent of the Council thereof.

28. A municipality having a contract under this Act with the Commission may,—

(1) Acquire lands and real and personal property, and erect, construct and operate works for the transmission and distribution of

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electrical power or energy in the municipality, and issue debentures for any of the purposes mentioned in this clause, notwithstanding anything contained in any Act of the Legislative Assembly of this Province;

(2) Entrust the construction of the works and the control and management of the same to a Commission to be called "The Power Commission of (Naming the municipality)."

(3) "Request the Commission to expropriate any lands, tenements, real and personal property, good will, chattels, stock-in-trade, effects, plant, and equipment, rights, powers, privileges and franchises, or any other property which may be necessary or useful for the transmission and distribution of electrical power or energy in said municipality, and upon receipt of said request the said Commission shall proceed under the provisions of this Act to expropriate same for said municipality, or for the use of the Power Commission thereof."

29. A municipality having a contract with the Commission for a supply of electrical power or energy shall not issue any debentures under this Act unless and until the Commission approves of such issue in all respects.

30. (1) The Commission shall annually adjust and apportion among the municipalities all expenditures made on behalf of the municipalities by the Commission in the exercise of the powers conferred upon the Commission by this Act;

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(2) The adjustment and apportionment made by the Commission shall be final and binding upon the municipalities.

31. Where, by their contracts with the Commission, a number of municipalities have assumed the cost of the purchase of, or works for the development of electrical energy for the supply of such group of municipalities under the provisions of this Act, such group of municipalities shall, for the purpose of this Act, be called a "System."

32. The Commission shall have the right, wherever feasible connections may be made between any of the Systems operating under this Act, to make the necessary connections so as to divert power from any one System to any other System, and the means of such connection and the price to be paid by the System receiving such power to the System supplying such power shall, in all cases, be determined by the Commission, and the cost of the power so taken by any one System from any other System shall be dealt with by the Commission under the provisions of this Act as the cost or part of the cost of the power to be paid by the municipalities forming such System under their contracts with the Commission.

33. The price payable for power by one System to another shall be collected by the Commission from the System owing the same for the System entitled to receive the same, and all sums so paid to any System shall be applied to the cost of construction, maintenance and operation of such System in such manner as the Commission may direct.

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PART III.

Hydro Electric Districts.

34. Any portion of the Province without the limits of any incorporated city, town or village may be incorporated as an hydro electric district for the purposes of this Act in the manner following:

(1) Any five persons being ratepayers, bona fide residents and real property owners within the said proposed hydro electric district may call a meeting of the ratepayers residing and owning real property in the said proposed district by posting in at least six of the most public places in the said proposed district, one of which shall be in His Majesty's Post Offices, if there be one within the said proposed district, notices stating that a meeting of said ratepayers will be held to consider the organization of said district into an hydro electric district. Such notices shall be signed by said five ratepayers and real property owners, shall contain a general description of the boundaries of said proposed district, and shall state clearly the time when and the place where and the purpose for which such proposed meeting shall be held. Such notices shall be so posted one week at least before the date of said meeting. Such notices shall be substantially in the form "A" in the Appendix to this Act.

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(2) Upon the convening of said meeting any twenty-five ratepayers being bona fide residents and owners of real property in said proposed district shall constitute a quorum, and should a majority of those present at such meeting and being ratepayers, residents and real property owners, as aforesaid, decide, by resolution in writing, in favour of organizing said district as an hydro electric district under the provision of this Act, such resolution may be in form "B" appended to this Act and when signed by the Chairman and Secretary of the meeting, duly elected at such meeting, shall forthwith be transmitted to the Commission with a statement of the number of ratepayers present at said meeting and of the result of the vote. The Commission shall thereupon investigate the proposed district and determine whether or not it is practicable and in accordance with good engineering practice to incorporate such portion of the Province as an hydro electric district, having regard to the cost, including cost of transmission and distribution, of electrical power and energy to the consumers therein, and, if in the opinion of the Commission the said proposed district is suitable for incorporation as an hydro electric district and it is practicable and in accordance with good engineering practice to build and maintain a distribution system for the distribution of electrical power and energy in the said district, having regard to the supply of electrical power and energy available or to be made available

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and the cost of the same to the consumers in the said district, the Commission shall make a report upon the same to the Provincial Secretary-Treasurer, and may amend the proposed bounds of said district, and shall transmit to the said Provincial Secretary-Treasurer with its report the resolution of the aforesaid ratepayers of the said proposed district. The Provincial Secretary-Treasurer may require satisfactory proof of the posting of the said notice, and that the resolution has been properly passed by ratepayers duly qualified as hereinbefore mentioned.

(3) Any ten or more properly qualified ratepayers in the said hydro electric district may within ten days after said meeting lodge objections with the Provincial Secretary-Treasurer in writing, signed by the said ratepayers, to the incorporation of the district for the aforesaid purpose, and it shall be the duty of the Provincial Secretary-Treasurer to inquire into such objections, and determine whether or not such proposed district shall be organized as an hydro electric district.

(4) If in the opinion of the Provincial Secretary-Treasurer the organization of the said hydro electric district should be proceeded with he shall by order in writing:

(a) Fix a day, an hour and place for the holding of a meeting of ratepayers and bona fide residents of the said proposed hydro

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electric district for the purpose of determining whether or not the organization of the said hydro electric district should be proceeded with;

(b) Appoint some suitable person to act as scrutineer at such meeting;

(c) Cause reasonable notice of such meeting to be given to the aforesaid ratepayers and bona fide residents of said proposed hydro electric district by posting or advertising or both as he may deem advisable;

(d) Cause to be prepared from the latest parish list of ratepayers a list of all the ratepayers and bona fide residents and owners of real property in said proposed hydro electric district;

(e) Assign a name to said proposed district.

(5) Upon the convening of the public meeting set out in the last preceding subsection of this Act, the scrutineer shall attend with the said list of ratepayers. The scrutineer shall call the meeting to order, and thereupon a Chairman shall be elected by ballot for the purpose of presiding thereat. Should a majority of those present and whose names are entered on said list decide by ballot in favor of incorporating the said district into an hydro electric district the meeting may proceed to

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elect by ballot three Commissioners each of whom shall be a ratepayer and resident of the said proposed hydro electric district; the said Commissioners shall be known as the (naming the district) Hydro Electric Commissioners. The said Commissioners shall be sworn to the faithful discharge of their duties before a Justice of the Peace or a Commissioner for taking affidavits to be read in the Supreme Court. The said meeting shall also fix the date of the annual meeting, as hereinafter provided, and shall appoint an auditor to audit the accounts for presentation at the annual meeting.

(6) A copy of the minutes of said meeting containing said resolution shall be certified by the chairman and the said scrutineer, and same shall be forthwith filed with the Provincial Secretary-Treasurer, and thereupon the said hydro electric district shall be and become a body corporate.

35. The said Hydro Electric Commissioners shall have all such powers and privileges incidental to a corporation in this Province as may be necessary for the purpose of acquiring electrical power and energy from the Commission and supplying the said hydro electric district with same and without restricting the generality of the foregoing to furnish power for both public and private lighting and power purposes, and sell and supply electrical power as provided by this Act,

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and to construct, erect and maintain works, machinery, poles, wires and conductors and appliances for the purposes of conveying electrical power and energy and transmitting and distributing the same through and across public streets, highways, squares and bridges, and shall have and enjoy all the privileges and powers conferred upon a municipality under Sections 27, 28 ss. (1) and (2), 29, 30, 31, 32 and 33 of this Act, and all rights, powers and privileges conferred upon or granted to municipalities, incorporated towns and incorporated villages by this Act, or amendments thereto, shall when not inconsistent herewith, apply to an hydro electric district incorporated hereunder. Said Hydro Electric Commissioners shall have power to assess, levy and collect taxes on all property, both real and personal, situate within the said hydro electric district, and upon the incomes of the residents thereof for the aforesaid purposes, and when authorized by the annual meeting or any special meeting of the ratepayers when properly constituted shall have power to borrow money or issue debentures for the purpose of carrying out the provisions of this Act and subject to the provisions of the said Act.

36. The said Hydro Electric Commissioners may appoint a Secretary, who shall remain in office during the pleasure of the Hydro Electric Commissioners, receiving such remuneration as the annual meeting of the ratepayers may determine; the duties of such Secretary shall be similar to the duties of a Secretary of a Company under

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The New Brunswick Companies Act, 1916, and he shall further give bonds to the satisfaction of the Hydro Electric Commissioners for the faithful performance of his duties.

37. There shall be an annual meeting of the ratepayers of the hydro electric district in the month of February, thereof ten days' notice shall be given by the Hydro Electric Commission stating the time and place thereof, by posting such notice in at least six conspicuous places in the said district. The Hydro Electric Commissioners shall at such annual meeting present a full and detailed report of all receipts and expenditures and a full financial statement of the affairs of the Commission for the preceding calendar year, which said financial statement shall be audited by the auditor appointed for the said district.

38. The meeting shall decide what amount shall be raised by loan or assessment for the purposes of maintaining and distributing electric power and energy in the district and shall give such general directions as it may deem advisable, and also fix a time and place for the holding of future meetings.

39. Special meetings of the ratepayers may be called by the Hydro Electric Commissioners at any time upon notice posted as provided in Section 34 of this Act, and a special meeting shall be called without delay when a requisition to that effect signed by ten ratepayers is presented to the

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Hydro Electric Commissioners or Secretary, which requisition shall state the nature of the business to be considered at such meeting.

40. The Secretary shall place in the hands of the auditor appointed by the ratepayers ten days before the annual meeting all the accounts, vouchers and writings of every kind having to do with the hydro electric district and the same shall be fully examined and reported upon by said auditor, and all books of account, lists, vouchers and writings shall be open to the auditor at all times when he shall think proper to examine them.

41. Whenever it is necessary for the ratepayers to raise money by a loan or otherwise for the purposes of this Act they may, either at the first meeting as provided by this Act, or at any annual or special meeting, decide what amount shall be borrowed and what amount shall be assessed, levied and collected for such purposes, and may direct the Hydro Electric Commissioners to borrow such amount, and when so authorized by the ratepayers and The New Brunswick Electric Power Commission the Hydro Electric Commissioners of said district may issue debentures or certificates of debt evidencing on the face thereof the fact that they are issued by the Hydro Electric Commissioners of such hydro electric district and the amount and conditions of such loan and debentures shall be approved of by the ratepayers of said districts and by The New Brunswick Electric Power Commission.

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42. All money received from the sale of electrical power and energy, or by way of rates and taxes, shall be applied by the Hydro Electric Commissioners to the purchase of electrical power and energy and the construction, maintenance and operation of a distribution system of electrical power and energy under the provisions of this Act, and in general for the purposes of this Act, and shall also be applied to the payment of principal and interest on all debentures issued under the provisions of this Act; and in the event of the ratepayers at any general meeting refusing to make provision for the payment of principal and interest on such debentures, or for any deficit in the construction, maintenance and operation of such distribution system, or any indebtedness properly incurred by the Hydro Electric Commissioners under the provisions of this Act, the said Hydro Electric Commissioners are hereby required to make and levy a rate of assessment upon the residents of the district and the real and personal property situate therein of an amount sufficient to pay such principal and interest or any such deficit, together with charges for assessing and collecting the same.

43. Any said Hydro Electric Commissioners may enter into a contract with The New Brunswick Electric Power Commission for the purchase and delivery of electrical power and energy by the said The New Brunswick Electric Power Commission under the provisions of this Act, but such contract shall be subject to the approval of the Lieutenant-Governor-in-Council.

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44. The Hydro Electric Commissioners of any district shall hold office for three years except the Commissioners first elected, and taking office in any said district, one of whom, to be decided by lot, shall go out of office at the first annual meeting after their election, and the second, to be determined by lot, shall go out of office at the second annual meeting, and the third shall go out of office at the next annual meeting. At each succeeding annual meeting the senior Commissioner shall go out of office and at each annual or special meeting called for the purpose where a vacancy occurs in the office of Commissioner, either by the expiration of time, by death, resignation, or otherwise, the said annual or special meeting shall proceed to elect a Commissioner to fill any vacancy which occurs on the Board of Commissioners. Any Commissioner retiring or whose term of office has expired may be re-elected at any such annual meeting. Every Commissioner elected under this part shall hold office until his successor is elected and sworn in his stead. Every Commissioner elected to complete an unexpired term shall hold office only for the balance of the term for which he was elected.

45. The Hydro Electric Commissioners constituted hereunder in addition to other powers enjoyed under this Act shall have the power, subject to confirmation at any annual or special meeting of the ratepayers and residents entitled to vote as aforesaid, to construct a lighting system throughout the said hydro electric district or part

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thereof and light highways, streets, public places and public buildings, and to assess the said hydro electric district on account of the same as hereinbefore provided, but all poles and works of every nature and kind used in connection therewith or in the exercise of any powers conferred under this Act shall be placed on public highways, streets and squares only with the consent and approval of the Minister of Public Works.

46. In the event of any said Hydro Electric Commissioners failing to perform any of its duties by any act, default or omission on its part, and said failure cannot be remedied by resolution of the ratepayers as prescribed by this Act, or if in the opinion of the Provincial Secretary-Treasurer the affairs of the said hydro electric district shall have become disorganized, the Provincial Secretary-Treasurer may by order, notice of which shall be published in The Royal Gazette, declare that on and after a day named therein such hydro electric commission shall be deemed to be disorganized, and thereupon the said the Hydro Electric Commissioners shall cease to have any rights, powers or privileges under this Act. Upon such disorganization the Provincial Secretary-Treasurer may appoint one or more persons to act in the room and stead of the said the Hydro Electric Commissioners with the same authority as conferred by this Act on the said the Hydro Electric Commissioners, and such person or persons shall be remunerated from the funds of the said hydro electric district or otherwise as the Provincial Secretary-Treasurer

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determines, and may proceed to adjust and settle the assets and liabilities of the said hydro electric district, with power to carry on the undertaking of the said the Hydro Electric Commissioners or to dispose of and convert into money the assets and property of the said the Hydro Electric Commissioners, and apply the same to the payment of the liabilities, and if amount is insufficient to assess and levy and collect any sum required to cover any deficit or balance remaining unpaid, together with the expense of collecting the same, in the same manner as the Hydro Electric Commissioners could assess, levy and collect taxes under this Act.

47. When any sum is ordered to be assessed for any purpose under Part III of this Act, the same shall be levied by a fair apportionment according to the valuation contained in the list certified by the County Secretary as hereinafter mentioned.

48. Any sum so ordered to be assessed shall be collected as follows: The Hydro Electric Commissioners shall furnish the County Secretary of the county in which the district is situate, or any part of it is situate, with a list of the persons liable to be assessed in such district or part thereof upon their property or income, that is to say, of persons who are residents of the district, and of persons who own real estate in the district liable to taxation, but who do not reside in the district, and of persons and corporations liable to be rated as aforesaid in respect of real or personal property,

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or income, by reason of carrying on business there, or being rated as corporations, trustees or as aforesaid; the County Secretary shall set opposite the name of each person the amount on which he is liable to be taxed, as the same appears on the assessment list of the parish last on file, or as the same may be amended, or corrected, or added to, as herein provided, that is to say: In the case of a non-resident of the district the taxable valuation of the real estate in the district owned by the non-resident; and in the case of a resident of the district, the taxable valuation of income and real and personal property of such resident as the same appears in such assessment list; and in the case of corporations, firms where any of the partners reside without the district, persons liable to be rated as trustees, or executors, and persons non-resident in the district, but liable to be rated as inhabitants by reason of carrying on business therein, the real or real and personal property and the total income (as the case may be) for which such corporation, firm or person is rated upon such assessment list in respect of such district; persons assessed as the owners of real estate in the parish assessment list shall, until the filing of the next parish assessment list, be deemed the owners thereof for purposes of hydro electric district assessment; the County Secretary shall certify such list and the Hydro Electric Commissioners shall pay the said County Secretary twenty-five cents for every list not exceeding twenty-five names, and fifty cents for every other list.

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49. The said Hydro Electric Commissioners shall prepare and furnish to the Secretary a list of the assessments as hereinbefore provided with instructions in writing thereon signed by the said Hydro Electric Commissioners or any two of them, authorizing and directing the Secretary to collect from the persons therein named the amount set opposite their names and the rate shall be collected by the Secretary in the same manner, as near as may be, as other rates and taxes are collected under and by virtue of Chapter 21, 3 George V. (1913) respecting rates and taxes, and all the provisions of said Chapter concerning the levying and assessing of rates shall so far as applicable and not inconsistent with any provision of this Act be construed as applicable to this Act.

50. In any law relating to the collection of rates or to the rights and privileges of collectors, the word "collector" may be taken to include the Secretary of any Hydro Electric Commissioners.

51. Any irregularity or defect in substance or form in the parish assessment list shall not affect the validity of any hydro electric district assessment founded thereon.

52. If any errors in the preparation of the list submitted to the County Secretary, or in the assessment made thereon be made, the Hydro Electric Commissioners may at any time before a subsequent rating correct such error.

53. Every assessment made or to be made by any Hydro Electric Commissioners shall be legal

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if the aggregate amount thereof shall not exceed the amount ordered to be assessed by more than ten per cent.

PART IV.

Supply of Power to Other Corporations and
Persons.

54. Subject to the approval of the Lieutenant-Governor-in-Council, the Commission may contract from time to time with any other corporation or person for supplying to them electrical power or energy.

55. The Commission may, from time to time, regulate and fix the price at which electrical power or energy supplied by the Commission may be sold or distributed by any municipality or the Power Commission thereof or by any hydro electric district or the Hydro Electric Commission thereof, or by any person, firm or corporation receiving same from said municipality or the Power Commission thereof or from said hydro electric district or the Commission for distribution or sale.

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Form A. (Sec. 34).

NEW BRUNSWICK ELECTRIC POWER ACT.

PUBLIC NOTICE.

The undersigned ratepayers hereby call a meeting of all the ratepayers who are bona fide residents and real property owners within the district hereinafter described to consider the organization of said district into an hydro electric district by virtue of the provisions of "The New Brunswick Electric Power Act, 1920," and the amendments thereof. Said meeting shall be held at.....in the said district on the.....day of.....192.., at the hour of.....o'clock in thenoon.

A general description of the boundaries of the said proposed district is as follows:

(Insert general description).

Dated the.....day of.....192...

.....

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Form B. (Sec. 34, S. S. 2).

NEW BRUNSWICK ELECTRIC POWER ACT.

RESOLUTION.

The ratepayers of the district described as follows: (Put in description or district as described in the notice calling the meeting) assembled in meeting under the provisions of the Act entitled The New Brunswick Electric Power Act, 1920, and the amendments thereof, hereby resolve that in the opinion of this meeting it is desirable to organize said district as an hydro electric district under the provisions of the said Act.

Poll taken on said resolution was as follows:

Number of Qualified Ratepayers present.....
 Number of Voting Yea.....
 Number Voting Nay.....

.....
Chairman.

.....
Secretary.

Whereas, the said Commission is about to undertake development of certain water powers within this Province, which may require that certain properties, rights, powers, privileges, franchises and immunities shall be acquired and exercised without the territorial limits of the Province, for the purpose of supplementing the development and use of works and undertakings of the Commission within the Province.

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PART V.

56. The Commission shall have the power and capacity to acquire, hold, exercise and use beyond the territorial limits of the Province, all property, both real and personal rights, powers, privileges, franchises, and immunities, requisite or useful, or capable of being made useful, for the purposes of the Commission which may be lawfully acquired, held, exercised and used to the same extent as if the said Commission were a natural person.

57. Any Arbitrator before whom any arbitration under this Act is pending, where it shall appear necessary for the purposes of justice may, on the application of either party, make an order for the examination upon oath before the said Arbitrator, or any officer of the Supreme or County Court, or any other person at any place of any witness or person, other than an expert witness, and may empower any party to any such arbitration to give such deposition in evidence therein on such terms, if any, as the said Arbitrator may direct.

(1) The proceedings under Order XXXVII of "The Judicature Act, 1909," Rules 5 to 25 inclusively, shall, as far as applicable, apply to any proceedings taken under this Section.

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PART VI.

58. In this and the next following Section:

(a) "Corporation" shall mean and include a body incorporated, inter alia, to construct and operate works for conducting, furnishing or distributing electricity for light, heat or power purposes in, under or upon any highway and shall include any municipality or hydro-electric Commissioners having a contract with the Commission.

(b) "Highway" shall include street, land, road, square or other public communication.

(c) "Works" shall include wires, pipes, poles, conduits, ducts and other fixtures, appliances or apparatus.

59. (1) Where a corporation has constructed or desires to construct works for conducting, furnishing or distributing electricity for light, heat or power purposes, in, under or upon any highway, or part of highway, in, under, or upon which any other corporation has already constructed and has works for the like purposes, or any of them, upon the application of the first mentioned corporation and after notice to the other and hearing any objection which it may make, the Commission may, if it is of opinion that the location and mode of construction of such works are proper, approve of the same, and all works which such first mentioned corporation has constructed or may thereafter construct, the location and mode of construc-

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tion of which have been so approved, shall be deemed to have been constructed under statutory authority and to be lawfully constructed and may be maintained and operated by such corporation without its incurring any liability to any other corporation in respect of the construction, maintenance or operation of such works, any statute or law to the contrary notwithstanding, provided that the location and mode of construction, maintenance and operation are maintained up to the standard approved of by the Commission.

(2) Such approval may be given subject to such conditions as the Commission may deem necessary to prevent injury to the works of the other corporation, or to such other corporation and its servants and workmen in maintaining, repairing and operating them.

(3) Where the Commission is of opinion that it is necessary or expedient, in order to prevent danger from contact between the wires of different corporations or from any other cause, that insulators or other appliances should be affixed to the poles of either corporation, or that the wires of either of them should be attached to such insulators or other appliances, the Commission may authorize or direct such insulators or other appliances to be so affixed and such wires to be so attached in such manner as the Commission may deem best calculated to prevent such danger; and anything done by

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either corporation pursuant to such authority or direction shall be deemed to be lawfully done.

(4) Anything authorized or directed to be done under the provision of sub-section (3) shall be done at the expense of a corporation constructing the works in a locality in which works have already been constructed by another corporation and under such supervision as the Commission may direct.

(5) The powers conferred by this section may be exercised from time to time as occasion may require.

(6) The provisions of this section shall apply to works of a corporation constructed at any time before, as well as after the passing of this Act.

60. The Commission shall have exclusive jurisdiction as to all matters in respect of which authority is, by the next preceding section, conferred upon it, and nothing done by the Commission within its jurisdiction shall be open to question or review in any action or proceeding or by any court.

61. No court shall have authority to grant or shall grant an injunction or other order restraining, either temporarily or otherwise, the construction, maintenance or operation of any works the location and mode of construction of which have been approved by the Commission if the same are being

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or have been constructed in the place and according to the mode which have been so approved.

Notwithstanding anything contained herein the provisions of this Act [i.e., of Part VI] shall not apply to any litigation now pending in any Court, unless otherwise ordered by the Court before which such litigation may be pending.

Provided always, however, that the provisions of this Act [i. e. of Part VI] shall as between the New Brunswick Power Company and the City of Saint John be construed as follows: Where the word "Commission" appears there shall be substituted therefor the words "Board of Commissioners of Public Utilities."

APPENDIX II.

CERTIFIED ORDER

OF THE

LIEUTENANT GOVERNOR IN COUNCIL

OF THE

PROVINCE OF NEW BRUNSWICK

PASSED 9TH DECEMBER, 1924

THE HONOURABLE THE PREMIER REPORTS FOR
THE INFORMATION OF THE COMMITTEE OF THE
EXECUTIVE COUNCIL:

That The New Brunswick Electric Power Commission having under authority of the New Brunswick Electric Power Act, 10 George V., 1920, investigated Grand Falls Site on the St. John River as a source of power and having submitted a report thereon containing estimates of the cost of the proposed works and various reports showing the necessity of providing an increased supply of power and feasibility of economically generating from 40,000 to 100,000 h. p. at Grand Falls;

The Honourable the Premier now RECOMMENDS that in order that the development of Grand Falls by the Commission may proceed legally as required by section 9 of the aforesaid Act, that the Executive Council by Order-in-Council, authorize the New Brunswick Electric Power Commission:

I.

I. To construct, maintain and operate such dams, sluiceways, waterways, works, plant and equipment as is necessary for a complete hydraulic power plant at Grand Falls with an initial capacity of not less than 40,000 h. p.;

II. To construct, maintain and operate dams and works as required from time to time for the storage of water on the lakes and waters of the St. John River above Grand Falls and the tributaries thereof, for the purpose of regulating the flow of the said River at Grand Falls and increasing the efficiency of the aforesaid plant;

III. To negotiate for and acquire any rights, privileges, franchises, property both real and personal, of every nature and kind whatsoever, or any interest therein, and do all acts and things which may in the opinion of the Commission be useful or necessary for the construction and operation of the aforesaid plant and undertaking;

IV. To expropriate lands and premises and property under the powers contained in the aforesaid Act which in the opinion of the Commission are necessary for the building, construction, maintenance and operation of the said works, plant and undertaking or the development of the said water powers in connection therewith and do all acts and things which are necessary and expedient for the purpose of fully and effectually carrying out the aforesaid development of the said water powers and generating electrical power and energy therefrom;

V. To negotiate for and acquire any rights, privileges, franchises, property both real and

personal, of every nature and kind whatsoever or any interest therein which may be situated without the Province of New Brunswick and to do all acts and things in connection therewith which the Commission deems necessary or expedient for fully and effectually carrying out the development of the said water powers;

VI. To make application for and obtain the consent and authority of any government or governmental department or agency or public body or officer having authority or control over any of the aforesaid rights, privileges, franchises and property both real and personal, or having control or jurisdiction over the same in any manner or form for the purpose of carrying out the said development and undertaking;

VII. To make application to the International Joint Commission for its approval of the building and erection of said works and undertakings or any part thereof, which are within the jurisdiction of the said International Joint Commission;

VIII. To carry on the said works in accordance with aforesaid New Brunswick Electric Power Act, but under the condition that no contracts for the actual field construction be entered into by the Commission without the approval of the Lieutenant-Governor-in-Council.

And the Committee of Council concurring in said report and recommendation,

IT IS ACCORDINGLY SO ORDERED.

Certified; passed December 9, 1924.

M. B. DIXON,
Clerk, Executive Council.

