

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF THE
NEW BRUNSWICK ELECTRIC POWER COMMISSION
FOR PERMISSION TO CONSTRUCT AND OPERATE
CERTAIN PERMANENT WORKS IN AND ADJACENT
TO THE CHANNEL OF THE RIVER ST. JOHN IN
THE PROVINCE OF NEW BRUNSWICK AT A POINT
ON THE SAID RIVER KNOWN AS GRAND FALLS.

WHEREAS The New Brunswick Electric Power Commission (hereinafter called "the Applicant") has presented to and filed with this Commission plans of certain permanent works (hereinafter referred to as "the said works") for the development of hydro electric power in and adjacent to the channel of the River St. John in the Province of New Brunswick at a point in the said river known as Grand Falls, and has applied for approval of the said works and authority to proceed with the construction of the same under the provisions of the Treaty between the United States and Great Britain relating to Boundary Waters and questions arising between the United States and Canada of the 11th day of January, 1909, and

WHEREAS The power site of Grand Falls shown on said plans and described in said application lies wholly within the said 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 it is proposed to create and maintain a ponded area in the said river for a distance of approximately thirty-two miles above said Grand Falls, approximately twenty-nine miles of which ponded area is in that part of

the river along which the International Boundary between the United States and the Dominion of Canada passes, and

WHEREAS said application came on for hearing at the Town of Van Buren in the State of Maine on the 25th day of March, 1925, and at the City of Montreal on the 15th and 16th days of May and the 12th and 13th days of June, 1925, after due notice to all parties interested in both countries of the filing of said application and of the time and place of said hearing; when evidence was adduced and counsel heard on behalf of all parties including counsel on behalf of the United States and the Dominion of Canada, and

WHEREAS the said Applicant has settled the claims of the following parties in respect of property taken or injuriously affected by the said works, namely:- St. John Lumber Company, Bangor and Aroostook Railroad Company, Van Buren Bridge Company, Grand Falls Company Limited, and the International Paper Company, and has filed with this Commission agreements evidencing such settlements, copies of which are hereto annexed marked as Schedules A, B and C, and

WHEREAS the said Applicant has not yet effected a settlement with certain other owners of property which it is alleged will be taken or injuriously affected by said works, but has intimated that it expects and intends so to do, and

WHEREAS counsel for the United States claims that the United States is entitled to a certain percentage of the power to be developed at Grand Falls as aforesaid and the Dominion of Canada and the Province of New Brunswick deny this right, and

WHEREAS the Applicant has in fact agreed to furnish 2000 H. P. for use in the State of Maine at a price which in effect is not greater than that charged to like consumers of power in the Province of New Brunswick, and

WHEREAS this Commission deems it unnecessary to pass upon the respective contentions made by counsel as aforesaid, but considers it proper to reserve the right of the parties to reopen the question and ask for a decision on the above contentions should the above mentioned 2000 H. P. cease to be available for use in the United States at any time for any reason, and

WHEREAS the Applicant has in the event of an application having been made under the provisions of the preceding paragraph hereof, and this Commission having failed to render a decision thereon, undertaken that it will until this Commission renders a decision on said contentions, upon receiving reasonable notice in writing in that behalf, continue to make available for use in the United States the said 2000 H. P., on terms similar to those specified in above agreement, unless relieved by order of this Commission from so doing, and

WHEREAS the members of this Commission after having read the statements in response to said application filed on behalf of the Government of the United States, the State of Maine, International Paper Company and The Grand Falls Company Limited, the Canadian National Railways and the Bangor and Aroostook Railroad Company, and the agreements above referred to, and after having heard the evidence adduced and counsel for all parties as aforesaid, and after having considered the matters above recited, have determined that the said works should be approved and authority given for the construction

thereof pursuant to said Treaty, subject to the conditions hereinafter set forth.

1. THIS COMMISSION THEREFORE ORDERS AND DIRECTS that the said plans be and the same are hereby approved, and the construction of works in accordance therewith authorized under the provisions of said Treaty, upon and subject to the following conditions:

(1) That the said Applicant carry out and perform all its obligations under the above recited agreements according to the tenor of such agreements.

(2) That the said Applicant make suitable and adequate provision, to the satisfaction of this Commission, for the protection and indemnity against injury of all other interests on either side of the boundary.

(3) That the said works shall have such discharge capacity and be so constructed as to permit of the passage of water at all flood stages in no less quantity than would pass down under natural conditions in the International Section of the river, and whenever the flow of the river exceeds the discharge through the power house to such an extent as to cause the ponded level of the water surface immediately above the dam to rise above elevation 427.26 (mean sea level datum) - being the operating level shown on sheet number 4 of said plans - the sluices and other works for the passage of water shall be so operated as to provide for the passage of the river flow until the water level at the dam falls to said elevation.

2. AND THIS COMMISSION DOETH HEREBY RESERVE to the Applicant and to all parties having claims for injuries in respect of said works other than the parties to said agreements the right to apply for such further order, direction or action with reference to such claims as may seem proper.

3. AND THIS COMMISSION considers it unnecessary to pass upon the respective contentions of the United States and the Dominion of Canada and Province of New Brunswick as above recited, but should the above mentioned 2000 H. P. cease to be available for use in the United States at any time for any reason this Commission reserves the rights of the parties to reopen the question and ask for a decision on the above contentions. And until this Commission renders a decision on such questions the Applicant shall in accordance with its undertaking in that behalf make available at least 2000 H. P. for use in the United States upon receiving reasonable notice in writing requiring it so to do unless relieved by order of this Commission from so doing. Liberty is hereby reserved to the Applicant from time to time and at any time to apply to this Commission for relief from its said undertaking.

4. AND THIS COMMISSION DOETH FURTHER ORDER AND DECLARE that nothing in this order contained, in the recital or elsewhere, shall by implication or otherwise be construed or taken as an expression of opinion on the part of the Commission with reference to the contentions above recited or as a recognition in any way of the principles contended for by counsel for either country.

Dated at Washington, D.C., this 22nd day of June, A. D. 1925.

Charles S. Clark
Commissioner
Fred J. Dubois

Mary A. Reed
P. J. McGovern
H. A. Heath