

New Zealand.



ANALYSIS.

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1902, No. 1.—*Private.*

AN ACT to enable the Hawera County Electric Company (Limited) to supply and use Electrical Energy for Lighting and Power Purposes within the Borough of Hawera and the Surrounding Districts. Title.

[13th September, 1902.]

WHEREAS a company has been incorporated under the provisions of "The Companies Act, 1882," and the amendments thereof, under the name of "The Hawera County Electric Company (Limited)," having amongst its objects the carrying-on at Hawera and elsewhere in the Provincial District of Taranaki of the business of an electrical-energy supply company in all its branches, including the production of electrical energy and supplying the same for lighting purposes and as a motive power, and also the business of providing telpherage-ways for the use of farmers and others in the County of Hawera and the surrounding districts for carrying milk to the factories and so saving the roads from such traffic: And whereas it is expedient that provision should be made authorising the said company to break up or cross over streets and roads, and cross over rivers and bridges, and to enter upon lands within the County of Hawera and the surrounding districts, and to place mains, service-lines, distributing-mains, and telpherage-lines either above or below ground, and to lay down and place pipes, conduits, and service-pipes, Preamble.

and to erect pillars, arches, and poles, and to dam back, impound, and divert the water of the Waingongoro Stream and restore the same to the bed of the said stream lower down its course, and to make, construct, and do other works and things for producing, supplying, and using electrical energy for public and private purposes and providing telpherage-ways within the County of Hawera and in the surrounding districts, and to do all such other acts, deeds, matters, and things from time to time as are incidental or conducive to carrying out fully and effectually the aforesaid objects of the said company :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act is "The Hawera County Electric Lighting Act, 1902."

Interpretation.

2. In this Act, if not inconsistent with the context hereof, and unless there are words to exclude or restrict such meaning, the words and expressions following shall severally have the meanings hereinafter assigned to them, that is to say,—

The expression "electricity" means electricity, electric current, or any like agency :

The expression "energy" means electrical energy, and for the purposes of this Act electrical energy shall be deemed to be an agency within the meaning of "electricity" as defined by this Act :

The expression "the company" means the Hawera County Electric Company (Limited), its successors, or the assigns of all or any of the company's rights and powers under this Act :

The expression "public purposes" refers to the supply of electricity to or in any street or any place belonging to or subject to the control of a local or public authority, or any hall, public theatre, or building belonging to or subject to the control of any local or public authority, but shall not include any other purpose to which electricity may be applied :

The expression "private purposes" refers to any purpose whatever to which electricity may for the time being be applied, not being public purposes, but shall not include the transmission of any telegram :

The expression "local authority" means local authority as defined in "The Interpretation Act, 1888."

3. Subject and without prejudice to "The Electric Lines Act, 1884," "The Counties Act, 1886," and "The Municipal Corporations Act, 1900," and any amendments thereof respectively, the company may supply and use energy for public and private purposes within the whole or any part or parts of the area of supply as defined by this Act, and for the purposes aforesaid may break up or cross over streets and roads, and cross over or under railways, rivers, and bridges, and place mains, telpherage-lines, service-lines, and distributing-mains either above or below ground, and lay down and place pipes, conduits, and service-pipes, and erect pillars, arches,

Power to supply and use electrical energy within area of supply and to execute necessary works.

and poles, and make, construct, and do all other necessary or proper works and things for supplying energy and providing telpherage-ways within such area of supply or any part or parts thereof, upon such terms and conditions, for such period or periods of time, and subject to such regulations and provisions for securing the safety, convenience, and welfare of the public as may be agreed upon between the company and the local authority or authorities having jurisdiction within such area of supply.

4. The company may, for the purpose of the supply and use of electrical energy as by the last preceding paragraph hereof authorised, from time to time whenever it may deem it advisable so to do, place mains, service-lines, telpherage-lines, and distributing-mains either above or below ground upon or under any lands situate within the area of supply (saving and excepting Crown, ecclesiastical, and Corporation property, and property held on trust for public or charitable purposes), and upon such lands lay down and place pipes, conduits, and service-pipes, and erect pillars, arches, and poles, and make, construct, and do all other necessary or proper works and things for supplying and using electrical energy within such area of supply or any part or parts thereof; and for the purpose of executing the works by this section authorised the company, and its workmen and others by its direction, may enter upon and cross and recross any of the lands within the said area of supply (saving and excepting as aforesaid), either with or without horses and carts or vehicles:

The company may enter upon lands for the purpose of executing works.

Provided, however, that the company shall pay compensation to every person entitled thereto as in subsection two of section six of this Act provided, in respect of the exercise by the company of the powers conferred upon it by this section.

5. The company may from time to time construct dams and reservoirs upon, and dam back, impound, and divert the water from the Waingongoro Stream, at such point or points upon the said stream as the company may determine, for the purpose of using any water so dammed back, impounded, and diverted as a motive power in the generation of electrical energy, but shall restore any water so diverted as aforesaid to the bed of the said stream at some other point or points lower down in the course thereof; and for the purpose of such construction and diversion the company, and its servants and workmen and others by its direction, may from time to time enter upon and cross and recross any lands abutting upon or either mediately or immediately adjacent to the said stream, with or without carts or other vehicles, and thereon make, lay down, erect, and fit all tunnels, pipes, water-gates thereto, and appliances, and do all other works and things necessary or incidental to the using of the said water as a motive power as aforesaid.

The company may dam back and divert Waingongoro Stream.

6. (1.) Every person having any estate or interest in any lands abutting on the said Waingongoro Stream between the point at which the waters of the said stream shall have been diverted and the point at which such waters shall have been restored to the bed of the said stream, or in any lands on to, upon, or through which the water of the stream shall have been dammed back, impounded, or diverted, as provided in section five hereof, or in any lands through, over, or upon

Owners of lands abutting stream entitled to compensation.

which any of the aforesaid tunnels shall have been made or gates and appliances shall have been erected, shall be entitled to such compensation as may be either agreed upon between the company and such person, or awarded by the Compensation Court as hereinafter provided, in respect of any such lands injuriously affected by such construction, damming-back, flooding, impounding, or diversion as aforesaid, and in respect of any damage suffered by reason of the exercise of any other of the powers conferred on the company by this enactment.

(2.) Every person having any estate or interest in any lands situate within the area of supply upon or under which the company may have exercised any of the powers conferred upon it by section four of this Act shall be entitled to such compensation as may be either agreed upon between the company and such person, or awarded by the Compensation Court as hereinafter provided, in respect of any of such lands injuriously affected by reason of the exercise of the said powers conferred by section four hereof.

7. The District Court of the Taranaki District shall be the Compensation Court for the purposes of this Act, and any claims for compensation may be made to the Judge for the time being of such Court and filed in the office of the said Court at Hawera; and for the purpose of the making and hearing of such claim the provisions of sections thirty-six to forty-eight inclusive and of sections sixty-one to sixty-seven inclusive of "The Public Works Act, 1894," shall (subject to such modifications as may be necessary to make the same applicable to proceedings under this Act) apply and be read as part of this Act; and for the purpose of the making of the award of compensation the provisions of sections sixty-nine, seventy, subsection one of section seventy, sections seventy-one, seventy-three, seventy-four, seventy-five, and seventy-six of "The Public Works Act, 1894," shall (subject to such modifications as may be necessary to make the same applicable to proceedings under this Act) apply and be read as part of this Act.

8. In determining the amount of compensation to be awarded, the Court shall take into account severally the extent to which any lands in respect of which a claim may be made under subsection one of section six of this Act in which the claimant has an interest are or are likely to be affected by such damming-back, flooding, impounding, or diverting of water as hereinbefore authorised; the extent of any damage suffered by any claimant having an interest in any such lands as last aforesaid by reason of the making, laying-down, erecting, or fitting of any tunnels, pipes, water-gates thereto, and appliances as also hereinbefore authorised; and the extent to which any lands situate within the area of supply and through or upon which any of the works authorised by section four hereof are carried out are or are likely to be injuriously affected by the carrying-out or the nature of such works; and shall also take into account, by way of deduction from the amount of compensation to be awarded, any increase in the value of any of the aforesaid lands caused or likely to be caused by, and any benefits or conveniences derived or likely to be derived from, the exercise of all or any of the powers conferred upon the company by this Act.

Owners of lands entered upon entitled to compensation.

District Court to assess compensation in accordance with the provisions of "The Public Works Act, 1894."

How compensation to be assessed.

9. The company may from time to time, for the purpose of the establishment or extension of their works on the said Waingongoro Stream, under the provisions of "The Public Works Act, 1894," enter and take any lands immediately adjacent and on either bank of the said stream anywhere in the course of the said river between Section 18, Block I., Hawera Survey District, and Section 38, Block I., Hawera Survey District; provided that this power shall come to an end when the area or aggregate areas so taken shall amount to six acres; and for the purposes of this section the company shall be deemed to be a local authority within the meaning of "The Public Works Act, 1894," and any person claiming interest in any lands so taken shall be entitled to compensation as in the said Public Works Act provided, but the same shall be assessed as in section seven of this Act provided.

Power to take land not exceeding 6 acres along the river-banks.

10. The company may from time to time, but subject to the consent thereto of the Governor by Order in Council, make, and from time to time (but subject to the like consent) vary, annul, or revoke, by-laws for the proper management and protection of the company's electrical works, property, plant, concerns, and business, and for the carrying-out to the best advantage of the electrical projects and objects of the company, and by such by-laws may impose a penalty not exceeding five pounds (to be recovered in a summary way) for any breach thereof: Provided that such by-laws shall not be repugnant to this Act, "The Electric Lines Act, 1884," "The Municipal Corporations Act, 1900," or any County Act of the General Assembly, or any amendment thereof respectively, or to any by-law or regulation which may now or hereafter be made under any such Acts or amendments as aforesaid.

Company to make by-laws subject to Governor's consent.

11. A copy of any by-law sealed with the seal of the company shall be received as evidence of the same having been duly made unless the contrary be proved.

By-laws sealed by company to be evidence.

12. Nothing in any by-law made under this Act shall be deemed to relieve any person from any penalty, punishment, or action to which he would otherwise be liable in respect of anything done by him in breach of any such by-law: Provided that no person shall be punished twice for the same offence.

By-laws not to relieve persons from other liability.

13. The area of supply shall be all that area of land situate within the Provincial District of Taranaki, and comprising the whole of the Hawera Survey District (excepting thereout Blocks IV., VIII., XII., and XV. thereof), the whole of the Waimate Survey District (excepting thereout Blocks I., II., V., and VI. thereof), the whole of the Kaupokonui Survey District (excepting thereout Blocks IV., V., VI., VII., VIII., IX., and XIII. thereof), and Blocks IX., X., XIII., XIV., and XV. of the Ngaire Survey District (excepting thereout the Borough of Eltham).

Area of supply defined.

14. The company shall within a period of two years after the coming into force of this Act proceed to erect the necessary plant to supply electrical energy within the meaning of this Act, and deliver the same to consumers within three years.

Date of erection of works and commencement of supply.

15. The prices to be charged by the company for energy supplied by it shall not exceed those stated in Sections I. and II. of the Schedule hereto respectively:

Prices of electrical energy.

Provided that, subject to the right of the consumer to require that he should be charged according to some one or other of the methods mentioned in the Schedule hereto, the company may make an agreement with the consumer as to the price to be charged for energy and the mode in which such charges are to be ascertained, and may charge accordingly.

Power to local authorities to purchase undertaking.

16. The Hawera Borough Council, the Hawera County Council, the Normanby Town Board, and the Manaia Town Board, being the local authorities having jurisdiction within such area of supply, may at any time after the expiration of twenty-five years from the date of the coming into operation of this Act, upon giving six calendar months' previous notice in writing of their intention in that behalf, require the company to sell to such local authorities the company's undertaking, upon the terms of paying the then value of the undertaking, and also the value of all lands, corporeal and incorporeal rights, buildings, materials, and plant of the company suitable to and used by the company for the purposes of its undertaking; such values to be, in case of difference, determined by arbitration; and the provisions of "The Arbitration Act, 1890," shall apply to any arbitration held under this section, and this Act shall be deemed a submission within that Act if and when such local authorities shall give notice to the company of their intention to exercise the power of purchase hereby conferred. The said local authorities shall, within twelve months after the making of the award by the said arbitrators or their umpire, pay to the company the amount thereby determined as the amount to be paid to the company, and thereupon all lands, corporeal and incorporeal rights, buildings, materials, and plant of the company shall vest in and be delivered to the said local authorities, and failing such payment within the period aforesaid the said local authorities shall be deemed to have waived all their rights under this Act.

Schedule.

SCHEDULE.

THE expression "unit" shall mean the energy contained in a current of 1,000 amperes flowing under an electro-motive force of one volt during the hour.

SECTION I.

When the company charge any consumer by the actual amount of energy supplied to him they shall be entitled to charge him at the following rates per quarter: For any amount up to twenty units, one pound; and for each unit over twenty units, one shilling.

SECTION II.

When the company charge the consumer by the electrical quantity contained in the supply given to him they shall be entitled to charge him according to the rates set forth in Section I. of this Schedule, the amount of energy supplied being taken to be the product of such electrical quantity and the declared pressure at the consumer's terminals—that is to say, such a constant pressure at those terminals as may be declared by the company under any by-laws made under this Act.