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In the Privy Council.

No. 27 of 1935.

UNIVERSITY OF LONDON
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INSTITUTE OF ADVANCED
LEGAL STUDIES

NORTH-WESTERN UTILITIES LIMITED

15213

v.

LONDON GUARANTEE & ACCIDENT COMPANY LIMITED,

STATUTES OF ALBERTA.

	PAGE
1916 6 George V, Chapter 29 ... ..	1
1924 14 George V, Chapter 3, Section 21 ..	27
1922 Revised Statutes, Chapter 168 ... ..	28

1916.

CHAPTER 29.

An Act to validate and confirm a Certain By-law and Agreement of the City of Edmonton, in the Province of Alberta, granting a Franchise to The Northern Alberta Natural Gas Development Company, Limited, for supplying gas to the said city and inhabitants thereof, and to authorize the said company to construct certain gas pipe lines and works in the Province of Alberta.

(Assented to April 19, 1916.)

WHEREAS The Northern Alberta Natural Gas Development Company, Limited, own, hold or control large gas wells in the vicinity of Viking and Pelican, in the Province of Alberta, and large gas fields surrounding the said wells ; and

Whereas the said company own, hold and control a franchise granted by the City of Edmonton for the supplying of natural gas to the said city and inhabitants thereof granted under by-law number 662 of the said city and agreement executed thereunder ; and

Whereas the said company is desirous, on proper terms, of supplying natural gas to the said city and the inhabitants thereof, and to other cities, towns and villages and the inhabitants thereof, and to other consumers of natural gas residing or carrying on business in the Province of Alberta outside of any city or town, and for that purpose desires to construct gas pipe lines connecting the said gas wells of the company or any other gas wells which the company may acquire, with the said cities and towns and consumers ; and

Whereas the said by-law and agreement executed thereunder, granting a franchise from the said city to the said company, have been submitted to a vote of the burgesses of the said city, and have received the approval of over two-thirds of the burgesses voting thereon ; and

Whereas a petition has been presented praying for an Act to validate and confirm the above mentioned by-law and the agreement executed thereunder by the said city ; and to grant to the said company the right, power and privilege to lay down, maintain and operate its gas pipe lines along, over and across all road allowances lying outside of any city or town within the Province of Alberta, and over and across all or any lands now or at any time hereafter vested in His Majesty in the right of the province, and to acquire across private lands within the Province of Alberta a right of way for the said gas pipe lines ; and it is expedient to grant the prayer of the said petition ;

Now therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows :

1. In this Act where the following words occur they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :

1. " Land " or " lands " shall include any real estate messuages, lands, tenements and hereditaments of any tenure ;

2. " Minister " shall mean the Minister of Public Works of the Province of Alberta for the time being ;

3. " Highways " shall mean any public road, street, lane, or other public way or communication ;

4. " Company " shall mean " The Northern Alberta Natural Gas Development Company, Limited ; "

5. " Board " shall mean the Board of Public Utility Commissioners of the Province of Alberta for the time being.

2. The said by-law and the said agreement executed by or on behalf of the said city granting a franchise as aforesaid, and all the rights, powers, liberties and privileges, exclusive and otherwise, granted by, and all the terms, provisoes and conditions contained in, the said by-law and agreement, are hereby declared to be in full force, virtue and effect and to be legal, valid and binding upon the corporation of the said city, notwithstanding any informalities, irregularities or defects therein either in substance or form, or any informalities, irregularities or defects in the passing thereof, and notwithstanding that the said corporation may not have had the power to pass the said by-law or to enter into the said agreement, or to grant the said rights, powers, liberties and privileges, exclusive and otherwise, or any of them.

3. With the consent of the Minister and subject to such regulations and specific directions as may from time to time be made or given by the Minister, the said company, its successors and assigns and it and they are hereby authorized and empowered, outside the boundaries of any city or town, to put down, take up, relay, connect, disconnect, repair, maintain and operate its gas pipe lines along, over and across all highways, roads, road allowances, bridges, waters, water-courses, streams and public places of every and any description whatsoever and over all or any other lands within the Province of Alberta now or at any time hereafter vested in His Majesty in the right of the province and to do all other matters and things incidental thereto.

4. The company, its successors and assigns, and it and they are hereby authorized and empowered to take and acquire private lands within the Province of Alberta for the purpose of a right of way for its pipe line or lines, and generally for the purposes of its undertaking with the powers and on the terms and conditions and in the manner following :

1. The company shall prepare a map or maps of its main pipe line or lines connecting its said gas wells with the City of Edmonton and of the branches thereof connecting the said main pipe line or lines with other cities or towns (but excepting all other distributing lines) showing the general location of the proposed pipe line, the termini and the principal towns and places through which the said pipe line or lines are to pass, giving the names thereof and the railways and navigable streams (if any) to be crossed by the pipe line, and shall give such further or other information as the board may require.

(2) Such map shall be submitted to the board and prepared upon a scale of not less than six miles to the

inch or upon such other appropriate scale as the board may determine, and shall be accompanied by the written consent of the Minister as required by section three of this Act and by an application requesting the board's approval of the general location as shown on the said map.

(3) Before approving such map and location the board may make such changes and alterations therein as it may deem expedient and upon being satisfied therewith shall signify its approval upon the map and when so approved the map and application shall be filed in the office of the board and no change or alteration from the general location of the line of the pipe line or lines of the company as approved by the board shall be allowed unless such change or alteration has been first approved by the board. The board in approving any such map and location may approve the whole or any portion thereof and when it approves only a portion thereof, it shall signify its approval upon the map accordingly.

(4) Upon compliance with the preceding provisions of this section the company shall make a plan and book of reference of the pipe line or lines of the company ; the plan shall show the right of way with lengths of sections in miles, the names of the terminal points, the property lines, owners' names, the areas and length and width of lands proposed to be taken in figures (every change of width being given) and the bearings, also all open drains, watercourses, highways and railways proposed to be crossed or affected ; the book of reference shall describe the portion of land proposed to be taken in each quarter section to be traversed giving numbers of the quarter sections and the area, length and width of the portion thereof proposed to be taken, the names of owners and occupiers so far as they can be ascertained ; the board may require any additional information for the proper understanding of the plan.

(5) The plan and book of reference may be of a section or sections of the pipe line or lines of the company.

(6) Such plan and book of reference shall be submitted to the board, who if satisfied therewith may sanction the same and by such sanction shall be deemed to have approved merely the location of the pipe line or lines of the company as shown in such plan, and book of reference, but not to have relieved the company from otherwise complying with this Act.

(7) Before sanctioning any plan or book of reference of a section of the pipe line or lines of the company the board may require the company to submit the plan and book of reference of the whole or any portion of the

remainder of the pipe line or lines of the company or such further or other information as the board may deem expedient.

(8) The plan and book of reference when so sanctioned shall be deposited in the office of the board, and each plan shall be numbered consecutively in order of deposit ; and the company shall also deposit copies thereof or of such parts thereof as relate to each land registration district through which the pipe line or lines of the company is to pass duly certified as copies by the board in the office of the registrar for such land registration districts respectively.

(9) The pipe line or lines of the company may be made, carried or placed across or upon the lands of any person on the located line although the name of such person has not been entered in the book of reference through error or any other cause or although some other person is erroneously mentioned as the owner of or entitled to convey or as interested in such lands.

(10) Where any omission, mis-statement or error is made in any plan or book of reference so registered the company may apply to the board for a certificate to correct the same ; the board may in its discretion require notice to be given to parties interested and if it appears to the board that such omission, mis-statement or error arose from mistake may grant a certificate setting forth the nature of the omission, mis-statement or error and the correction allowed, and upon deposit of such certificate with the board and of copies thereof certified as such by the board with the registrar of the land registration district or districts respectively in which such lands are situated the plan or book of reference shall be taken to be corrected in accordance therewith and the company may thereupon subject to this Act construct the pipe line or lines of the company in accordance with such correction.

(11) Every registrar shall receive and preserve in his office all plans, books of reference, certified copies thereof and other documents required by this Act to be deposited with him and shall indorse thereon the day, hour and minute when the same were so deposited ; and all persons may resort to the same and may make extracts therefrom and copies thereof if occasion requires paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted and fifty cents for each copy made of any plan ; the registrar shall at the request of any person certify copies of any such plan, book of reference or document so deposited in his office or of such portions thereof as may be required on being paid therefor at the rate of ten

cents for each hundred words copied and such additional sum for any copy of plan furnished by him as is reasonable and customary in like cases together with fifty cents for each certificate given by him.

(12) Such certificate of the registrar shall set forth that the plan or document a copy of which or any portion of which is certified by him is deposited in his office and state the time when it was so deposited and that he has carefully compared the copy certified with the document on file and that the same is a true copy of such original; and such certified copy shall in all courts be evidence that such original document was so deposited at the time stated and certified and shall be *prima facie* proof of the original so deposited and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed as shown or appearing by such certified copy and in the case of a plan that such plan is prepared according to a scale and in manner and form sanctioned by the board.

(13) A plan of the completed pipe line or lines of the company or of as much thereof as is completed and in operation and of the land taken or obtained for the use thereof shall within six months after completion of the undertaking or within such extended or renewed period as the board at any time directs be made and filed with the board and plans of the parts thereof located in the different land registration districts prepared on such a scale and in such manner and form and signed or authenticated in such manner as may from time to time be designated by *The Land Titles Act* shall be filed in the offices of the land registration districts in which such parts are respectively situated; and every company which neglects or fails to file such plans with the board or to file such plans in such registry offices as hereinbefore provided shall be liable to a penalty of two hundred dollars and a like penalty for each and every month during which such failure or neglect continues.

(14) All plans required by law to be deposited by the company as hereinbefore provided shall be drawn on such scale with such detail upon such materials and of such character as the board may either by general regulation or in any case require or sanction and shall be certified and signed by the president or vice-president or general manager and also by the chief engineer of the company; and any book of reference required to be so deposited shall be prepared to the satisfaction of the board, and unless and until such plan and book of reference are so made satisfactory to the board it may refuse to sanction

the same or to allow the same to be deposited with it within the meaning of this Act.

(15) In addition to such plans and books of reference the company shall with all reasonable expedition prepare and deposit with the board any other or further plans or books of reference of any portion of the pipe line or lines of the company or of any works thereof which the board may from time to time order or require.

(16) If any deviation, change or alteration is required by the company to be made in the pipe line or lines of the company or any portion thereof as already constructed or as merely located and sanctioned as aforesaid a plan and book of reference of the portion of such pipe line or lines of the company proposed to be changed showing the deviation, change or alteration proposed to be made shall in like manner as provided in subsection 6 of section 2 of this Act be submitted for the approval of and may be sanctioned by the board; and the same when so sanctioned shall be deposited and dealt with as provided in subsection 8 of section 2 of this Act, and the company may thereupon make such deviation, change or alteration and all the provisions of this Act shall apply to the portion of such line of pipe line or lines of the company so at any time changed or proposed to be changed as to the original line.

(17) The board may either by general regulation or in any particular case exempt the company from submitting the plan and book of reference as in this section provided where such deviation, change or alteration is made or to be made for the purpose of reducing a gradient or otherwise benefiting the pipe line or lines of the company or for any other purpose of public advantage as may seem to the board expedient providing such deviation, change or alteration does not exceed three hundred feet from the centre line of the pipe line or lines of the company located or constructed in accordance with the plans and books of reference deposited with the board under this Act.

(18) The company shall not commence the construction of the pipe line or lines of the company or any portion or section thereof until the provisions of subsections 6, 7 and 8 of section 2 of this Act are fully complied with and shall not make any change, alteration or deviation in the pipe line or lines of the company or any portion thereof until the provisions of the last preceding section are fully complied with.

(19) the provisions of this section shall be deemed to be in substitution for clause 23 of the *Ordinance respecting*

*Water, Gas, Electric and Telephone Companies*, being chapter 21 of the Ordinances of the North-West Territories for the year 1901.

LANDS AND THEIR VALUATION.

5. The lands which may be taken without the consent of the owner thereof for the right-of-way shall not exceed fifty feet in breadth.

6. Whenever the company requires at any place on the line of its pipe line or lines of the company, more ample space to secure the efficient construction, maintenance or operation of the pipe line or lines of the company, or its undertaking, than it then possesses or can take without the consent of the owners thereof, the company may cause a map or plan and book of reference to be made of the additional lands required at such place for the purposes aforesaid.

7. The company may transmit the map or plan and the book of reference to the board with an application on behalf of the company supported by affidavit referring to such map or plan and book of reference and stating that certain lands shown therein are necessary for such purposes and that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights and requesting the board to authorize the taking thereof for such purposes under this Act.

8. At least ten days' notice of such application shall be given to the owner or possessor of such property; and the correctness of the map or plan and book of reference and the truth of the allegations in such application shall be certified by the president or one of the directors of the company or by its general manager and by its engineer and such map or plan and book of reference and statement shall be made and transmitted to the board in duplicate.

9. The board shall inquire into the correctness of the map or plan and book of reference and the truth of the allegations of such application and if it is satisfied thereof shall grant a certificate to that effect and declaring it to be necessary in the public interest that the land shown on such map or plan and book of reference or any less quantity should be acquired by the company; and such certificate shall be annexed to one of the duplicates of the said map or plan and book of reference and statement and the other duplicate shall remain in the office of the board.



**10.** A copy of the duplicate of such map or plan and book of reference and statement and of such certificate shall be deposited in each of the land titles offices of the land registration districts respectively in which the lands lie.

**11.** Upon the granting of such certificate and by virtue thereof the company may without the consent of the owners take the land shown on such map or plan and book of reference as required for such purpose ; and the company and all persons who could not otherwise convey the same to the company shall have with respect to any such land all the powers granted by this Act to companies and persons who could not otherwise convey the same with respect to lands which may be taken without the consent of the owners thereof ; and all the provisions of law at any time applicable to the taking of land by the company and its valuation and the compensation therefor shall apply to the lands mentioned in such certificate.

**12.** The company either for the purpose of constructing or repairing its pipe line or lines of the company or for the purpose of carrying out the requirements of the Minister or the board or in the exercise of the powers conferred upon it by this Act and its memorandum of association and certificate of incorporation, may enter upon any land which is not more than two hundred yards distant from the centre of the located line of the pipe line or lines of the company and may occupy the said land as long as necessary for the purposes aforesaid ; and all the provisions of law at any time applicable to the taking of land by the company and its valuation and the compensation therefor shall apply to the case of any land so required ; but before entering upon any land for the purposes aforesaid the company shall in case the consent of the owner is not obtained pay into the office of the clerk of the court for the judicial district in which the lands are situated such sum with interest thereon for six months as is after two clear days' notice to the owner of the land or to the person empowered to convey the same or interested therein fixed by a judge.

**13.** All tenants for life, guardians, executors, administrators and trustees and all persons whomsoever not only for and on behalf of themselves, their heirs and successors but also for and on behalf of those whom they represent whether infants, issue unborn, lunatics, idiots, *femmes covert* or other persons seized, possessed of or interested in any lands may contract for, sell, transfer and convey such lands unto the company all or any part thereof.

(2) When such persons have no right in law to sell or convey the rights of property of the said land they may obtain from a judge after due notice to the persons interested the right to sell the said land ; and the said judge shall give such orders as are necessary to secure the investment of the purchase money in such a manner as he deems necessary in accordance with the law of the province to secure the interests of the owner of the said land.

**14.** Any contract, agreement, sale, conveyance and assurance so made hereunder shall be valid and effectual in law to all intents and purposes whatsoever and shall vest in the company receiving the same the fee simple in the lands in such deed thereof described free and discharged from all trusts, restrictions and limitations whatsoever ; and the person so conveying is hereby indemnified for what he does by virtue of or in pursuance of this Act.

**15.** The company shall not be responsible for the disposition of any purchase money for lands taken by it for its purposes if paid to the owner of the land or into court for his benefit.

**16.** Any contract or agreement made by any person authorized by this Act to convey lands either before the deposit of the plan and book of reference or before the setting out and ascertaining of the lands required for the railway shall be binding at the price agreed upon for the same lands if they are afterwards so set out and ascertained within one year from the date of contract or agreement and although such land has in the meantime become the property of a third person ; and possession of the land may be taken and the agreement and price may be dealt with as if such price had been fixed by an award of arbitrators as hereinafter provided and the agreement shall be in the place of an award.

**17.** All persons who cannot in common course of law sell or alienate any lands so set out and ascertained shall agree upon a fixed annual rent as an equivalent and not upon a principal sum to be paid for the lands and if the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

**18.** Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of any lands or for any part of the purchase money of any lands which the vendor agrees to leave unpaid shall be

chargeable as part of the working expenditure of the company upon the deed creating such charge and liability being duly registered in the land registry office of the proper registration district.

**19.** After the expiration of ten days from the deposit of the plan and book of reference in the office of the registrar of land titles and after notice thereof has been given in at least one newspaper if there is any published in each of the land registration districts through which the pipe line or lines of the company is intended to pass application may be made to the owners of lands or persons empowered to convey lands or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the company, and thereupon agreements and contracts may be made with such persons touching the said lands or the compensation to be paid for the same or for the damages or as to the mode in which such compensation shall be ascertained as seems expedient to both parties ; and in case of disagreement between them or any of them all questions which arise between them shall be settled as hereinafter provided.

**20.** The deposit of a plan and book of reference and the notice of such deposit shall be deemed a general notice to all parties of the lands which will be required for the pipe line or lines of the company.

(2) The date of such agreement or the service of such notice or the order of the judge mentioned in section 105 shall be the time with reference to which any compensation or damages are to be ascertained.

**21.** The notice served upon the party shall contain—

- (a) A description of the lands to be taken or of the powers intended to be exercised with regard to any lands and describing the lands ;
- (b) A declaration of readiness to pay some certain sum or rent as the case may be as compensation for such lands or for such damages ;
- (c) The name of a person to be appointed as the arbitrator of the company if their offer be not accepted.

**22.** Such notice shall be accompanied by the certificate of a Dominion land surveyor or an Alberta surveyor or an engineer who is a disinterested person, which certificate shall state—

- (a) That the land if the notice relates to the taking of land shown on the said plan is required for

the pipe line or lines of the company or is within the limit of deviation allowed by this Act ;

(b) That he knows the land or the amount of damage likely to arise from the exercise of the powers ; and

(c) That the sum so offered is in his opinion a fair compensation for the land and damages aforesaid.

(2) Where no land is taken and the company denies the owner's right to compensation a surveyor's certificate is unnecessary.

(3) The notice need not be under the corporate seal of the company.

(4) It is not desirable that the company's arbitrator should be one of their own officers.

**23.** If the opposite party is absent from the land registration district in which the lands lie or is unknown an application for service by advertisement may be made to a judge.

**24.** The application for service by advertisement shall be accompanied by such certificate as aforesaid and by an affidavit of some officer of the company that the opposite party is so absent or that after diligent inquiry the person on whom the notice ought to be served cannot be ascertained ; and the judge shall order a notice as aforesaid but without such certificate to be inserted three times in the course of one month in a newspaper published in the judicial district in which the land is situated.

**25.** If within ten days after the service of such notice or within one month after the first publication thereof the opposite party does not give notice to the company that he accepts the sum offered by it or notify it of the name of a person who he appoints as arbitrator, the judge shall on the application of the company appoint a competent and disinterested person to be sole arbitrator for determining the compensation to be paid as aforesaid ; if the opposite party within the time aforesaid notifies the company the name of his arbitrator then the two arbitrators shall jointly appoint a third or if they cannot agree upon a third then the judge shall upon the application of the party or of the company (previous notice of at least five clear days having been given to the other party) appoint a third arbitrator.

**26.** The arbitrators or the sole arbitrator as the case may be shall be sworn before a justice of the peace faithfully

and impartially to perform the duties of their or his office ; and shall proceed to ascertain such compensation in such way as they or he or a majority of them deem best ; and the award of such arbitrator or of any two of them or of the sole arbitrator shall be final and conclusive except as hereinafter provided ; but no such award shall be made nor any official act be done by such majority except at a meeting held at a time and place of which the other arbitrator has had at least two clear days' notice or to which some meeting at which the third arbitrator was present had been adjourned.

**27.** The arbitrators or arbitrator in deciding on such value or compensation shall take into consideration the increased value beyond the increased value common to all lands in the locality that will be given to any lands through or over which the pipe line or lines of the company will pass by reason of the passage of the pipe line or lines of the company through or over the same or by reason of the construction of the pipe line or lines of the company and shall set off such increased value that will attach to the said lands or grounds against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands as aforesaid.

**28.** If by an award of arbitrators made under this Act the sum awarded exceeds the sum offered by the company the costs of the arbitration shall be borne by the company ; but if otherwise they shall be borne by the opposite party and be deducted from the compensation and in either case the amount of such costs if not agreed upon may be taxed by the judge.

**29.** The arbitrators or a majority of them or the sole arbitrator shall examine on oath or solemn affirmation the parties or such witnesses as appear before them or him.

(2) Such arbitrators or arbitrator shall have and may exercise with respect to such arbitration the following powers :

(a) Enter upon and inspect any place, building or works being the property or under the control of any company the entry or inspection of which appears to them or him requisite ;

(b) Inspect any works, structure or property of the company ;

(c) Require the production of all books, papers, plans, specifications, drawings and documents relating to the matter before them or him ;

(d) Administer oaths, affirmations or declarations ;

(e) And shall have the like power in summoning witnesses and enforcing their attendance and compelling them to give evidence and produce books, papers and things which they are required to produce as is vested in any court in civil cases ; any person summoned to attend before such arbitrators or arbitrator shall be entitled to receive the like fees and allowances for so doing as if summoned to attend before the court and no person shall be excused from attending or testifying or from producing books papers and documents on the ground or for the reason that the testimony or evidence documentary or otherwise required of him may tend to criminate or subject him to any proceeding or penalty ; but no evidence so given nor any document so produced shall be used or receivable against such person in any criminal proceeding thereafter instituted against him other than a prosecution for perjury in giving such evidence.

(3) The arbitrators shall take down in writing the evidence brought before them unless either party requires that it be taken by means of stenography in which case a stenographer shall be named by the arbitrators unless the parties agree upon one and shall be sworn before the arbitrators or before any one of them before entering upon his duties ; and the expense of such stenographer if not determined by agreement between the parties shall be taxed by the court or judge and shall in any case form part of the costs of the arbitration ; and after making their award the arbitrators shall forthwith deliver or transmit by registered letter at the request of either party in writing the depositions together with the exhibits referred to therein and all papers connected with the reference except the award to the clerk of the court to be filed with the record of the said court.

**30.** A majority of the arbitrators at the first meeting after their appointment or the sole arbitrator shall fix a day on or before which the award shall be made.

(2) No award shall be invalidated by reason of any want of form or other technical objection if the requirements of this Act have been substantially complied with and if the award states clearly the sum awarded and the lands or other property, right or privilege for which such sum is to be the compensation ; and the person to whom the sum is to be paid need not be named in the award.

**31.** If any arbitrator appointed by the judge dies before the award has been made or is disqualified or refuses or fails to act within a reasonable time the judge upon application of either party of which application six days' notice

shall be given to the opposite party and upon being satisfied by affidavit or otherwise of such death, disqualification refusal or failure shall appoint another arbitrator in the place of such arbitrator :

Provided that in the case of any arbitrator named by one of the parties and appointed by the judge so dying or not acting such party may upon such application name the arbitrator who shall be appointed by the judge in the place of the arbitrator so deceased or not acting ; but no recommencement or repetition of the previous proceedings shall be required in any case.

**32.** Where the notice given improperly describes the land or materials intended to be taken or where the company decides not to take the land or materials mentioned in the notice it may abandon the notice and all proceedings thereunder but shall be liable to the person notified for all damages or costs incurred by him in consequence of such notice and abandonment, such costs to be taxed in the same manner as costs after an award ; and the company may give to the same or any other person notice for other land or materials or for land or materials otherwise described notwithstanding the abandonment of the former notice.

**33.** The person offered or appointed as valuator or as sole arbitrator shall not be disqualified because he is professionally employed by either party or has previously expressed an opinion as to the amount of compensation or because he is related or of kin to any shareholder of the company if he is not himself personally interested in the amount of the compensation ; and no cause of disqualification shall be urged against any arbitrator appointed by the judge after his appointment but the objection shall be made before the appointment and its validity or invalidity shall be summarily determined by the judge.

**34.** Whenever the award exceeds six hundred dollars any party to the arbitration may within one month after receiving a written notice from any one of the arbitrators or the sole arbitrator as the case may be of the making of the award appeal therefrom upon any question of law or fact to the court and upon the hearing of the appeal the court shall if the same is a question of fact, decide the same upon the evidence taken before the arbitrators as in a case of original jurisdiction.

(2) Upon such appeal the practice and proceedings shall be as nearly as may be the same as upon an appeal from

the decision of an inferior court to the said court subject to any general rules or orders from time to time made by the said last mentioned court in respect of such appeals ; which orders may amongst other things provide that any such appeal may be heard and determined by a single judge.

(3) The right of appeal hereby given shall not affect the existing law or practice in the province as to setting aside awards.

**35.** Upon payment of legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same or upon payment into court of the amount of such compensation in the manner hereinafter mentioned the award or agreement shall vest in the company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent has been awarded or agreed upon ; and if any resistance or forcible opposition is made by any person to its so doing the judge shall on proof to his satisfaction of such award or agreement issue his warrant to the sheriff of the judicial district or to a bailiff as he deems most suitable to put down such resistance or opposition and to put the company in possession ; and the sheriff or bailiff shall take with him sufficient assistance for such purpose and shall put down such resistance or opposition and put the company in possession.

**36.** Such warrant shall also be granted by the judge without such award or agreement on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice is necessary to carry on some part of the pipe line or lines of the company with which the company is ready forthwith to proceed.

**37.** The judge shall not grant any warrant under the next preceding section unless ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or the person empowered to convey the land or interested in the land sought to be taken or which may suffer damage from the taking of materials sought to be taken or the exercise of the powers sought to be exercised or the doing of the thing sought to be done by the company ; and unless the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration and not less than fifty per cent. above the amount mentioned in the notice served under section 21 of this Act.



**38.** The costs of any such application to and of any such hearing before the judge shall be borne by the company unless the compensation awarded is not more than the company had offered to pay ; and no part of such money so paid into court or of any interest thereon shall be repaid or paid to such company or paid to such owner or party without an order from the judge which he may make in accordance with the terms of the award.

**39.** The compensation for any lands which may be taken without the consent of the owner shall stand in the stead of such lands and any claim to or encumbrance upon the said lands or any portion thereof shall as against the company be converted into a claim to the compensation or to like proportion thereof ; and the company shall be responsible accordingly whenever it has paid such compensation or any part thereof to a person not entitled to receive the same saving always its recourse against such person.

**40.** If the company has reason to fear any claim, mortgage, hypothecation or encumbrance or if any person to whom the compensation or annual rent or any part thereof is payable refuses to execute the proper conveyances and guarantee or if the person entitled to claim the same cannot be found or is unknown to the company or if for any other reason the company deems it advisable the company may pay such compensation into court with the interest thereon for six months and may deliver to the clerk of such court an authentic copy of the conveyance or of the award or agreement if there is no conveyance ; and such conveyance or award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.

(2) A notice of such payment and delivery in such form and for such time as the court appoints shall be inserted three times within a month in a newspaper if there is any published in the judicial district in which the lands are situated which notice shall state that the title of the company (that is, the conveyance, agreement or award) is under this Act and shall call upon all persons claiming an interest in or entitled to the lands or any part thereof to file their claims to the compensation or any part thereof.

(3) All such claims filed shall be received and adjudicated upon by the court and the adjudication thereon shall forever bar all claims to the land or any part thereof including any dower, mortgage, hypothecation or encumbrance upon the same and the court shall make such order for the distribution, payment or investment of the compensation

and for the security of the rights of all persons interested as to right and justice and to law appertains.

(4) The costs of the proceedings in whole or in part including the proper allowances to witnesses shall be paid by the company or by any other person as the court orders and if the order for distribution, payment or investment is obtained in less than six months from the payment of the compensation into court the court shall direct a proportionate part of the interest to be returned to the company and if from any error, fault or neglect of the company it is not obtained until after six months have expired the court shall order the company to pay into court as part of the compensation the interest for such period further as is right.

**41.** Subject to such regulations and specific directions as may from time to time be made or given in that behalf by the Minister and by the Minister of Railways and Telephones, the company, its successors and assigns, and it and they are hereby authorized and empowered to construct, maintain and operate, for the sole purposes of the company, a telephone line along, over and across any and all road allowances, highways and public places so as to follow as closely as possible any and all pipe lines owned or operated by the company, and over and across any and all lands acquired by the company, for the purposes of its undertaking.

**42.** The Minister may at his discretion request the company to submit a plan and profile of the pipe line or lines of the company which may be constructed along or across an existing highway, or which may be constructed across an existing railway, and such plan and profile shall show that portion of the highway or railway affected.

**43.** Nothing in this Act shall be taken to impair, abridge, take away or affect in any way the jurisdiction and powers of the Board of Public Utility Commissioners, under *The Public Utilities Act*, chapter 6 of the Statutes of Alberta, 1915, and amendments thereto.

**44.** Nothing in this Act shall be construed to give the company any authority to exercise any of its rights or powers over that piece or parcel of land one mile in width lying within and adjacent to the boundaries of the Province of Alberta.

BY-LAW NO. 662 OF THE CITY OF EDMONTON.

A By-law to authorize the execution of a certain agreement between the City of Edmonton and The Northern Alberta Natural Gas Development Company, Limited, and to grant said company the rights and privileges therein set forth.

Whereas the council of the City of Edmonton pursuant to *The Edmonton Charter* referred to the burgesses of the city the question of whether it should pass a by-law authorizing the execution by the city of the agreement, a copy of which is hereto annexed ;

And whereas at the voting thereon on the 8th day of November, 1915, 7,098 votes were cast in the affirmative and 2,436 votes in the negative as appears by the report of the returning officer received by said council on the 9th day of November, 1915 ;

Therefore the Municipal Council of the City of Edmonton, duly assembled, enacts as follows :

1. The mayor and clerk of the City of Edmonton are hereby authorized and empowered for and on behalf of the city to affix to said agreement (a copy of which is hereto annexed) the corporate seal of the said city in their presence.

2. The City of Edmonton hereby grants to the said The Northern Alberta Natural Gas Development Company, Limited, the special franchise, rights and privileges purported to be granted by said agreement, subject to all the covenants, provisoes, conditions, restrictions, penalties and other terms fully set forth therein.

Done and passed in council, this 16th day of November, 1915.

{ SEAL OF THE CITY OF EDMONTON }	W. T. HENRY, <i>Mayor.</i> CHAS. ED. K. COX, <i>Clerk.</i>
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Memorandum of Agreement made and entered this..... day of November, 1915.

Between :

The City of Edmonton, in the Province of Alberta (hereinafter called " the city " ),

of the First Part,

and

The Northern Alberta Natural Gas Development Company, Limited (hereinafter called " the company " ),

of the Second Part.

Whereas the city is desirous of obtaining a supply of natural gas for the city and inhabitants thereof ;

And whereas it is agreed between the city and the company for the company to supply natural gas to the city and inhabitants thereof on the terms and conditions following :

Now therefore this agreement witnesseth : That the parties hereto mutually covenant and agree each with the other as follows :

City grants  
power to  
lay pipes

For supplying  
natural gas

Company shall  
restore street  
to proper  
condition,  
and maintain  
for two years

1. The city hereby grants to the company, its successors and assigns, subject to the terms, conditions and provisions hereinafter contained, the full power, right and liberty to put down, take up, relay, connect, disconnect, repair, maintain and operate its gas pipe lines along, through or under the streets, squares, highways, lanes, alleys, grounds, bridges, parks, thoroughfares and other public places within the limits of the city, as the same may be from time to time extended as may be necessary or convenient for the purpose of supplying and conducting natural gas to the consumers thereof, and the company is to that end authorized to enter upon any and all the said places and to break at their own expense the surface and to make the necessary excavation thereon when and where the same may be required for the aforesaid purpose, and to do all other things reasonably necessary or convenient for the supplying of natural gas to the inhabitants or corporations of the city, and laying down, taking up, repairing, maintaining and operating its main gas pipe lines as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and causing as little obstruction as possible during the progress of the work, and at all other times, and restoring the streets, squares, highways, lanes, alleys, grounds, thoroughfares, parks and other public places within the limits of the city in all cases to their proper condition and maintain same in such condition for a period of two years, ordinary wear and tear excepted, and if the company shall fail to commence the said work within forty-eight hours after written notice to that effect from the engineer or such officer as may be appointed by the council of the city for that purpose, as to the particular places to be repaired, or shall fail to proceed therewith with all convenient speed, the said work may be done by the city and the company shall be liable for the cost thereof plus ten per cent. for overhead charges, and the company shall at all times, if required, while any street or pavement shall be broken up, cause a light sufficient for the warning of all persons using such highway or other public place to be set up and maintained every night during which same shall be

broken up and a proper guard during the day to the satisfaction of the city engineer or such other officer as may be appointed by the council of the city for that purpose. The company shall pay the city for all damages to the works of the city and for all changes or alterations in the works of the city caused or necessitated by the works of the company.

2. A plan showing the proposed location of the said mains and pipes as aforesaid shall be first submitted to and approved of by the engineer or such officer as may be appointed by the council of the city for that purpose, and the said engineer or other officer shall have the right to direct the location of the said pipe lines in the said streets, alleys and other public places within the city, and the said pipe lines shall be located in the lanes and alleys rather than in the streets and main thoroughfares when reasonably possible; and the company shall give notice in writing to the city engineer, or other officer appointed as aforesaid, of its intention to open or break up the same not less than three clear days before the beginning of the work, except in cases of emergency arising from defects in or breaking of the pipes or other works, when immediate notice shall suffice. In the event of any change by accident or otherwise in the level of any highways of the city constructing any works necessitating any alteration in the location of the company's pipe lines, the company shall make such alterations at its own cost.

Plan of location shall be submitted to engineer

3. The gas to be supplied hereunder shall not be brought from any point in the Province of Alberta south of the City of Red Deer.

Gas shall not be brought from south of Red Deer

4. This agreement is intended to operate as a consent by the city to the exercise by the company of the powers, rights, liberties and franchises herein contained according to the terms hereof, and also to the exercise within the City of Edmonton of the powers which may be exercised by a company under and by virtue of the *Ordinance respecting Water, Gas, Electric and Telephone Companies*, being chapter 21 of 1901, or by any other Ordinance or Statute and amendments thereto.

Franchise

5. The maximum net price to be charged for natural gas supplied by the company to consumers in the city during the exclusive term of the franchise hereby granted, shall be twenty-five (25) cents per thousand cubic feet:

Prices to be charged

Provided that if the amount consumed in any one month in any one building shall exceed one hundred and fifty thousand (150,000) cubic feet the maximum net price for all natural gas in excess of one hundred and fifty thousand (150,000) cubic feet as aforesaid shall be twenty-two (22c) cents per thousand cubic feet, and if the amount

so consumed exceeds 1,000,000 cubic feet the maximum net price for all natural gas in excess of that amount shall be 19c per thousand cubic feet, and if the amount so consumed exceeds 1,500,000 cubic feet the maximum price for all natural gas in excess of 1,500,000 shall be 17c per thousand cubic feet, and if the amount so consumed is in excess of 2,000,000 cubic feet the maximum price to be charged for all natural gas in excess of the said amount shall be 15c per thousand cubic feet ;

Provided further that the maximum price for all natural gas used in the city for power or manufacturing purposes shall be fifteen (15c) cents per thousand cubic feet ;

Provided further that on all bills not paid within twenty (20) days after the rendering of same the maximum price may be increased one and a half cents per thousand cubic feet. There shall be no discrimination among consumers of the same class using similar quantities and the price of gas for manufacturing purposes shall at all times be uniform, and no rebates shall be allowed to any consumers.

Company  
not to sell  
gas at less  
price

6. The company shall not sell natural gas to any consumers thereof at rates less than is charged by it for similar service within the city, except within a radius of five miles of any gas well of the company provided such well is not situated within a radius of forty (40) miles of the city.

If supply  
insufficient,  
domestic con-  
sumer to have  
preference

7. If the company shall at any time not have a sufficient supply of natural gas to supply all the requirements therefor for light, heat and power within the said city, the company shall give preference to the requirements of consumers for domestic purposes and to the demands of consumers within the city in preference to all other consumers.

Supply gas  
to property  
line at cost of  
company

8. The company shall supply as much natural gas as may be required within the limits aforesaid at the property line when the places or buildings to be supplied with natural gas are situated on land lying along the line of any main line of the company and the cost of the necessary connections from the main to the property line shall be borne by the company, and the company shall furnish free of charge to the consumers a gas meter to accurately measure all natural gas consumed, and the property line shall be the place of delivery of all natural gas supplied in the city and all expense and risk in utilizing and using such gas after delivery at the property line shall be borne by the consumer.

Furnish  
meter free  
of charge

Expense  
and risk to  
consumer  
inside property  
line

Gas shall  
comply with  
requirements  
of *Gas In-  
spection Act*

9. The natural gas to be distributed under this agreement and supplied in general shall apply with the requirements prescribed by *The Gas Inspection Act* of Canada and the regulations made thereunder.

10. The company will make such reasonable extensions as may from time to time be required by the council; provided always that any dispute as to the reasonableness of any such requirements shall be decided by The Board of Public Utility Commissioners of Alberta.

Company shall make extension as required

11. The company shall be liable for and shall indemnify the city against any damages arising out of the construction and operation of their works, owing to the negligence of the company, its servants and employees, and the city shall be liable for all damage to the plant of the company caused by the negligence of the city, its workmen, employees or licensees.

Company shall indemnify the city for damages

12. The city shall have the right at the expiry of twenty (20) years from the date hereof and at the expiry of each successive term of five (5) years thereafter on giving six months' previous notice in writing to the company, to take over and purchase from the company all its assets, works and plant within the city and such of its assets, works, plant, gas wells and gas leases outside of the city as are used by the company in supplying natural gas to the city and inhabitants thereof at the actual value thereof as a going concern plus ten per cent. not to include any value for franchise or value based on earnings or goodwill and making the city due allowances for deterioration, wear and tear and all other proper allowances, such actual value to be ascertained by arbitration under the Arbitration laws at the time in force in the Province of Alberta, the award of the arbitrator or arbitrators to be made within six months of the giving of the said notice, subject to any extension necessitated by any failure of the arbitration board to make its report within the required six months, and the city shall pay the same within six months from the date of the award; provided however that the right hereby granted to the city shall not be assignable and that the city shall not be at liberty to take possession of or to receive transfers of the said property until the payment of the amount awarded and upon payment of the said purchase price all rights hereunder shall absolutely cease and determine.

City has right to purchase at expiration of 20 years, and thereafter every 5 years

In case no notice in writing is given as aforesaid or in case the city fails to proceed with said arbitration or in case the amount of said award is not paid by the city within six months from the date of the award, the right of the city as herein provided to take over the said works and plant shall thereupon cease and determine for a period of five years, and all powers, rights, liberties and franchises hereby granted, and all the provisions of this agreement shall continue for a further period of five years except in so far as they are exclusive, and at the expiry of each term of five years the right to purchase, and in the alternative

the right of renewal to the company, shall again arise and be exercisable in the manner aforesaid, and so on from time to time at the expiry of each successive period of five years.

Company bound by obligation

13. Nothing herein contained shall be taken or read as relieving the company from the obligation to observe the terms and provisions of any and all by-laws of the city passed by the city council thereof, in the *bona fide* exercise of its legislative authority, but not inconsistent herewith. And nothing herein contained shall be construed as relieving the company from the payment of any rates, taxes or assessments which may be lawfully imposed.

And liable to taxes

Franchise exclusive for 20 years

14. In view of the large expenditure being incurred by the company in providing a supply of natural gas for the city and constructing pipe lines, distributing system and other works for supplying natural gas to the city and the inhabitants thereof, the city hereby further covenants and agrees with the company that the franchise, and all the rights, powers, privileges and liberties hereby granted, shall be exclusive for the supplying of natural gas for domestic and heating purposes for a period of twenty (20) years from the execution hereof but shall not be exclusive for the supplying of natural gas for manufacturing or power purposes, and that during the said period the city will not itself use, or permit any other person, firm or corporation to use, or consent to any other person, firm or corporation using the streets, squares, highways, lanes, alleys, grounds, parks, bridges, thoroughfares and other public places hereinbefore mentioned, or any of them, for the purpose of laying gas pipes along, through or under the same, except for supplying artificial gas or gas for manufacturing or power purposes only ; provided, however, that if the company shall fail to supply natural gas in the city to the extent of seventy-five per cent. of the requirements therefor of the domestic consumers in the city using natural gas for domestic purposes, not to include manufacturing or power purposes, for a period of three months except the three months next following the company's beginning to supply natural gas, for any cause save and except accident, or other cause beyond the control of the company, other than lack of supply, the privileges hereby granted shall cease and determine in so far as they are exclusive ; and if the city has not prior to the time when the company is again able to supply natural gas to the extent of the requirements herefor, entered into any contract, agreement or arrangement inconsistent herewith, the said exclusive privilege as respects natural gas as hereby granted shall be revived in full force and effect. The franchise hereby granted

If company fail to supply 75 per cent.

For three months

Exclusive privileges determined

Franchise not exclusive as against manufactured gas or natural gas for power



shall not be exclusive as against manufactured gas or as against natural gas for manufacturing or power purposes.

15. The company agrees to observe the same working conditions in regard to employees of the company as are established from time to time by the city as a fair wage schedule for similar service employment and in case of any kind of employment not coming under such fair wage schedule then the rates of wages and the hours per day shall be determined by the fair wage officer of the Department of Labour.

Will observe  
fair wage  
schedule

16. The company proposes to apply to the Legislature of the Province of Alberta at its next Session for an enactment by the Legislature which will ratify and confirm the granting of the powers, rights, privileges, liberties and franchise hereby granted, and the city agrees to assist and support such application, it being understood that the expenses of such application and of all other expenses in connection with the securing of the said legislation will be borne by the company.

To confirm by  
Legislature

17. The company within sixty days after the council has been authorized by the vote of the burgesses to enter into this agreement, the passing of the by-law authorizing the execution thereof and the same has been executed on behalf of the city, will commence drilling operations and will continuously carry on such drilling operations until wells have been completed capable of supplying an average of twenty million cubic feet per day of twenty-four hours to consumers in the city, and immediately upon the completion of gas wells as aforesaid, or sooner at the option of the company, it will commence the construction of a pipe line from the said wells to the city and will construct a distribution system within the city for supplying natural gas to the inhabitants thereof and will fully complete the said system within twelve months from the commencement thereof, and should the company prior to the commencement of the construction of the said pipe line or distributing system fail to continuously carry on drilling operations for a period of three months for any cause save and except strikes not caused through fault of the company, delays in obtaining material, acts of God, or the King's enemies or other cause or circumstances beyond the control of the company, the franchise hereby granted shall become null and void and all rights and claims of the parties hereto cease and terminate and the company shall pay to the city all its costs, charges and expenses incurred in connection herewith and should the company fail to complete the said pipe line and distributing system within the said period of twelve months after the commencement of the construction thereof for any cause save and except strikes not caused through

Commence  
drilling  
operations  
within sixty  
days

Commence  
construction

fault of the company, delays in obtaining material, acts of God, or the King's enemies or other cause or circumstances beyond the control of the company, it shall pay the city the sum of \$100.00 per day for each and every day after the expiration of twelve months after the company commences the construction of the said main pipe line from the wells of the company to the city until the said pipe line and distributing system shall be fully completed, payable at the end of each and every month.

Company shall deliver gas within two years

Penalty \$100 per day

The company will have so far completed its pipe line and distributing system as to be ready to deliver gas to consumers in the city within two years from the final execution hereof on behalf of the city. If it fails to do so the sum of one hundred dollars (\$100.00) a day shall be payable to the city as liquidated damages for such additional time not exceeding six months as such failure continues, and if such failure continues for more than two years and six months from such final execution thereof unless such time has been extended by the council of the city, all the exclusive rights and privileges hereby granted to the company may at the option of the city cease and determine :

Company to apply for right of way

Provided that before the time for the commencement of the construction of the said pipe line the company will apply for, and the city will support at the cost of the company its applications and use its best efforts to obtain from the Legislature of the Province of Alberta for the company the right to construct its said pipe line along road allowances and the power to expropriate a right of way for the said pipe line across private property, and any delay occasioned by failure to obtain such rights shall not be included in the periods of limitation above mentioned, but such period of delay shall not extend beyond the next session of the Legislature at which such application can be made.

Company to pay city five per cent. of gross receipts

18. In consideration of the exclusive privilege granted hereunder to the company, the company agrees to pay the city, from year to year, and as long as this franchise remains exclusive, five per centum of the gross receipts of the company from the sale of natural gas within the city for all purposes, provided that in view of the great expense to be incurred by the company for the first year following the commencement of the actual supply of gas within the city, the percentage payable by the company to the city shall be one per centum of the said gross receipts, and the percentage payable to the city shall be increased each year thereafter by one-half of one per centum until the percentage payable to the city shall amount to five per centum of the said gross receipts of the company, and the percentage payable to the city shall continue

thereafter five per centum of the said gross receipts so long as the franchise hereby granted shall remain exclusive. And for the purpose of recouping the city such sums as it has expended in and about the exploration of natural gas the company shall pay to the city the sum of fifteen thousand dollars, to become due and payable one year from the execution hereof.

This agreement shall be binding upon and enure to the benefit of the successors and assigns of each of the parties hereto.

In witness whereof the parties hereto have hereunto affixed their corporate seals under the hands of the proper officers in that behalf.

The corporate seal of the City of Edmonton was affixed this 16th day of November, 1915, in the presence of

(Sgd.) W. T. HENRY,  
*Mayor.*

(Sgd.) CHAS. ED. K. COX, [SEAL]  
*Clerk.*

The corporate seal of The Northern Alberta Natural Gas Development Company, Limited, was affixed this 16th day of November, 1915, in the presence of

W. H. MCLAWS,  
*Vice-President.*

H. H. HYNDMAN, [SEAL]  
*Secretary.*

## 1924.

### CHAPTER 3.

An Act to amend the Statute Law.

(Assented to April 12th, 1924.)

\* \* \* \* \*

21. *The Water, Gas, Electric and Telephone Companies Act*, being chapter 168 of the Revised Statutes of Alberta, 1922, is amended—

- (a) as to section 2 thereof by striking out the words “under any Act of the Province of Alberta” where they occur in subsection (1) thereof, and substituting therefor the words “under any Statute of the Dominion of Canada or any Act of the Province of Alberta”;
- (b) as to section 10 thereof by adding after the words “break up and uplift” where they occur therein the words “all lands as well as.”

\* \* \* \* \*

## 1922.

## CHAPTER 168.

An Act respecting Water, Gas, Electric and Telephone Companies.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows :

## SHORT TITLE.

Short title      **1.** This Act may be cited as "*The Water, Gas, Electric and Telephone Companies Act.*"

## GENERAL PROVISIONS.

Application      **2.—(1)** The provisions of this Act shall apply to every company organized, incorporated or licensed under any Ordinance of the North-West Territories or under any Act of the Province of Alberta for all or any of the purposes hereinafter set forth.

Interpretation of "gas"      (2) "Gas" in this Act shall be construed to include natural gas.      [1901, c. 21, s. 1 ; 1911-12, c. 4, s. 6(1).]

Conditions precedent to exercise of powers by company      **3.—(1)** No company shall be entitled to the benefit of this Act until it has obtained the consent to the exercise of the powers hereby given of the municipal corporation of the city or town within which such powers are to be exercised by such company.

(2) Such consent shall be by by-law and to be on such terms and conditions as the by-law may provide.

(3) Where the purposes of the company require the exercise of any of the said powers in any area without the limits of any city or town the consent of the Minister of Public Works to the exercise of such powers within such area shall also be first had and obtained. [1901, c. 21, s. 2.]

Powers of companies      **4.** The company may sell and dispose of meters and gas, water, electric or telephone fittings of every description for the use of any private or public building or for any establishment, company or corporation whatsoever as well as coke, coal tar and all and every the products of its works, refuse or residuum arising or to be obtained from the materials used or necessary for the manufacture of gas or electricity ; and every company may let out to hire meters and gas, water, electric or telephone fittings of every kind and description at such rate and rents as may be agreed upon between the consumers or tenants and the company.      [1901, c. 21, s. 3.]

**5.** Any electric light company may enter into any contract with any person or persons or body corporate or politic for the use of or may lease to him, them or it any power, engines, wheels or machines run by water, steam, gas or in any other manner erected by such company for the purpose of running or operating electric light plant to the end and intent that such machinery and power may be utilized and employed during the hours when the same is not required for the purpose of furnishing electric light. Disposal of surplus power

[1901, c. 21, s. 4.]

**6.** No company shall erect wires for the transmission of electricity for any purpose until it has filed with the Minister of Railways and Telephones plans showing the location of such wires, their height above the ground and such other information as the Minister may from time to time require, nor until such plans have been approved by the Minister. Condition precedent to erection of wires

[1911-12, c. 4, s. 6(2).]

**7.** Subject to the terms of the consent hereinbefore referred to the company may break up, dig and trench and use so much and so many of any streets, squares, highways, lanes and public places as are necessary for laying the mains and pipes to conduct the gas or water or for placing the wires and connections to conduct the electricity from the works of the company to the consumers or users thereof or make connection with a telephone system, doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress. Laying mains and wires in streets

[1901, c. 21, s. 5 ; 1911-12, c. 4, s. 6(3).]

**8.** When any company has laid down or erected mains, pipes, wires or conductors for the supply of gas, water, electricity or a telephone system through any of the streets, squares, or public places of any municipality no other person, persons, or bodies politic or corporate shall without the consent of the company first had and obtained, nor otherwise than on payment to the company of such compensation as may be agreed upon, lay down or erect any main, pipe, wire or conductor for the supply of gas, water, electricity or a telephone system within six feet of the company's mains, pipes, wires or conductors : Company's rights regarding mains and pipes

Provided that if it be impracticable to cut trenches for such other mains or pipes at a greater distance then they shall be cut at as nearly six feet from the company's mains, pipes, wires or conductors as the circumstances of the case will admit. [1901, c. 21, s. 6.]

Supplying  
parts of  
buildings  
having  
different  
owners or  
tenants

**9.** When there are buildings within the municipality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity or connect the telephone system to the property of or in the possession of another. [1901, c. 21, s. 7.]

Breaking up  
passages, etc.

**10.** The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same, doing as little damage as may be in the execution of the powers granted by this Act. [1901, c. 21, s. 8.]

Compensation

**11.** The company shall make satisfaction to the owners or proprietors of any building or other property or to the municipality or Minister of Public Works as the case may be for all damages caused in or by the execution of all or any of the said powers. [1901, c. 21, s. 9.]

Ascertainment  
of compensa-  
tion, when  
taking private  
property

**12.** No company shall be entitled by virtue of this Act to take possession or make use of private property or to do any work thereon until the amount to be paid for or in respect of such property is ascertained by arbitration or otherwise and is paid or tendered to the parties entitled thereto or is paid into Court for their benefit.

[1901, c. 21, s. 10.]

Location of  
works

**13.** The company shall locate and construct its gas or water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety. [1901, c. 21, s. 11.]

Limitations  
of powers of  
company

**14.** Nothing contained in this Act shall authorize any company or any person acting under its authority to take, use or injure for the purposes of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house or nursery ground for trees, or to convey from the premises of any person any water already appropriated and necessary for his domestic uses, without the consent in writing of the owner or owners thereof first had and obtained. [1901, c. 21, s. 12.]

Privileges  
of other  
companies

**15.** Nothing in this Act shall authorize any company to interfere with or infringe upon any exclusive privilege granted to any other company. [1901, c. 21, s. 13.]

**16.** Nothing in this Act contained shall prevent any person from constructing any works for the supply of gas, water or electricity or for a telephone system to or on his own premises. Individual rights  
 [1901, c. 21, s. 14.]

**17.** Neither the service nor the connecting pipes, wires or conductors of the company nor any meters, lustres, lamps, pipes, gas or water or electric or telephone fittings nor any other property of any kind whatsoever of the company shall be subject to or liable for rent or liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be or be in any way whatsoever liable to any person for the debt of any person to and for whose use and the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person. Exemption from distress and seizure  
 [1901, c. 21, s. 15.]

**18.** When a company has constructed works for supplying any municipality or municipalities with gas, water, electricity or telephones and the company is able so to do it shall supply all buildings situate upon land lying along the line of any supply pipe or wire upon the same being requested by the owner, occupant or other person in charge of any such building. Supplying of all buildings in line of supply  
 [1901, c. 21, s. 16.]

**19.** A company may, before supplying water, gas, electricity, or telephones to any building or as a condition to its continuing to supply the same, require any consumer to give reasonable security for the payment of the proper charges of the company therefor or for carrying the water, gas, electricity or telephone system into such building. Requirement of security from consumers  
 [1901, c. 21, s. 17.]

**20.** Nothing in the next preceding two sections contained shall be construed so as in any way to affect the liability of any company in respect of damages on account of any failure of supply through mischance, accident or mismanagement but the position of the company in respect thereof shall remain as if the said two sections had not been passed. Protection of company from liability for damage in certain cases  
 [1901, c. 21, s. 18.]

#### NON-PAYMENT OF CHARGES.

**21.** If any person supplied by the company with gas, water, electricity or telephone neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof the company or anyone acting under its authority may, on giving forty-eight hours' notice to the person supplied, stop the supply of gas, water Non-payment of rates, etc.

or electricity from entering or being supplied to or disconnect the telephone system from the premises of the person in arrears as aforesaid by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officer sees fit ; and may recover the rent or charge due up to such time together with the expense of cutting off the gas, water, electricity or telephone as the case may be in any competent court notwithstanding any contract to furnish for a longer time. [1901, c. 21, s. 19.]

PENALTIES.

Penalties

**22.** Any person who—

- (a) wilfully or maliciously breaks up, pulls down or damages, injures, puts out of order or destroys any main, pipe, engine, waterhouse pipe, plug or other work, wire or conductor or apparatus, appurtenance or dependency thereof or any matter or thing made and provided for use in connection therewith or any of the materials used and provided for the same or ordered to be erected, laid down or belonging to any such company ; or
- (b) in anywise wilfully does any other injury or damage for the purpose of obstructing, hindering or embarrassing the construction, completion, maintaining or repairing of the said works or causes or procures the same to be done ; or
- (c) bathes or washes or cleans any cloth, wool, leather, skin, animals or any nauseous or offensive things or casts, throws or puts any filth, dirt or any nauseous thing in or causes, permits or suffers the water of any sink, sewer or drain to be run or be conveyed into or causes any other annoyance to be done to the water within any reservoir, cistern, pond, source or fountain, from which the water belonging to the company is to be supplied or conveyed ; or
- (d) by any wrongful or improper means increases the supply of gas or electricity agreed for with the company ; or
- (e) wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, wire, conductor, service pipe or fitting belonging to any such company or wilfully impairs or knowingly suffers the same to be altered or impaired so that the meter indicates less gas, water or electricity than actually passes through the same—

shall on summary conviction be liable to a penalty not exceeding fifty dollars.



consent of such person cannot be obtained for that purpose the company shall proceed to arbitration under the provisions of *The Arbitration Act*.

(2) Such arbitration shall be by two arbitrators, one to be appointed by each party.

(3) The arbitrators shall determine the questions in dispute between the parties to the arbitration and shall decide as to the necessity or propriety of conducting any of the pipes, wires or conductors or carrying any of the works of the company through the lands of the other party if such party objects to the same being done.

(4) If such decision be in favour of the company or if no such objection is made the arbitrators shall adjudge what sum of money shall be paid to the owner of the property to be taken or used for the aforesaid purposes or any of them.

[1901, c. 21, s. 23.]

**23.**—(1) In all cases where the company may lawfully cut off and take away the supply of gas, water or electricity or disconnect the telephone system from any house, building or premises the company, their agents or their workmen upon giving forty-eight hours' previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, making as little disturbance and inconvenience as possible, and may remove and take away any pipe, meter, cock, branch, lamp, fitting or apparatus the property of and belonging to the company; and any servant duly authorized by the company may between the hours aforesaid enter any house into which a gas, water, electricity or telephone system has been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, wire, conductor, apparatus or fitting belonging to the company or used for its gas, water, electricity or telephone.

Entry of premises by employees of company

(2) If any person refuses to permit or does not permit the servants and officers of the company to enter and perform the acts aforesaid the person so refusing or obstructing shall incur a penalty not exceeding twenty dollars to the company for every such offence and a further penalty not exceeding four dollars for every day during which such refusal or obstruction continues, to be recovered with costs on summary conviction. [1901, c. 21, s. 21.]

**24.** Where a customer discontinues the use of the gas, water, electricity or telephone furnished or supplied by any company or where the company lawfully refuses to continue any longer to supply the same, the officers and servants of the company may at all reasonable times enter upon the premises in or upon which such customer was supplied with gas, water, electricity or telephone for the purpose of removing therefrom any fitting, machine, apparatus, meter, pipe, wire, conductor or other thing being the property of the company in or upon such premises, and may remove the same therefrom doing no unnecessary damage. [1901, c. 21, s. 22.]

Removal of fittings, etc. where service discontinued

#### ARBITRATION.

**25.**—(1) Subject to the provisions of section 14 hereof if any company deems it necessary or proper to conduct any of its pipes, wires or conductors or to carry any of its works through the lands of any person lying within or within ten miles of the municipality within which the operations of the company are to be carried on, and the

Arbitration where private property required