



CHAPTER 24

An Act to create the Quebec Electricity Commission

[Assented to, the 18th of May, 1935]

WHEREAS the control and distribution of electric energy Preamble.
in the Province of Quebec constitute economic problems having a widespread social effect and the electricity industry is essentially of public interest and affects the development of industry generally and the welfare of the population;

Whereas the consumption of electricity is constantly spreading and increasing in all branches of economic life;

Whereas this basic industry should be subject to strict control, in order to protect the general interest and that of municipalities, without, however, injuring that of private persons who have prudently invested capital therein;

Whereas the mistakes and abuses of the past must be rectified and a repetition of them be prevented;

Whereas every person or corporation enjoying a privilege derived from the provincial or municipal authority becomes the mandatary of the State and must use his privilege in the general interest, under such control as it may behoove the State to exercise;

Whereas such duty of control has for its main object to render the use of electric energy accessible to the greatest possible number of citizens, on the best conditions consistent with efficient service, according to a reasonable tariff established in the interest both of the consumer and of the investor (*bailleur de fonds*);

Whereas the Government of this Province has appointed a commission of competent persons to study all aspects of the question, and asked it to make a report of its inquiry, after hearing those interested and any other persons desirous of making suggestions;

Whereas such commission, after several months of investigation and study, has laid before the House its report containing its suggestions for the solution of the problem submitted to it; and

Whereas it is expedient to pass an act to give effect to the conclusions of such report;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

R. S., c. 46A,
added.

1. The Revised Statutes, 1925, are amended by adding thereto, after chapter 46 thereof, the following chapter:

“CHAPTER 46A

“AN ACT RESPECTING THE QUEBEC ELECTRICITY COMMISSION

Short title.

“1. This act may be cited as *Quebec Electricity Commission Act*.

“DIVISION I

“INTERPRETATIVE PROVISIONS

Interpreta-
tion;
“Commis-
sion”.
“Public
service”.

“2. In this act, unless the context otherwise requires:

1. The word “Commission” means the Commission created under section 3.

2. The words “public service” mean every corporation, municipal or otherwise, and every firm, person, or association of persons, or any lessee, trustee, liquidator or receiver thereof, who or which owns, operates, manages, or controls any system for the production, transmission, distribution or sale of electricity for light, heat, energy or power purposes.

“DIVISION II

“ORGANIZATION OF COMMISSION

“Quebec
Electricity
Commis-
sion”.

“3. The Lieutenant-Governor in Council may appoint a commission called the “Quebec Electricity Commission”, consisting of three members.

Term of
office of
members.

“4. The commissioners shall remain in office during good conduct, but the Lieutenant-Governor in Council may dismiss them on a joint address of the Legislative Council and of the Legislative Assembly, and, in case of any vacancy or vacancies among the commissioners by death, dismissal or other cause, he may appoint another person to fill any such vacancy or vacancies.

Vacancies.

"5. One of such commissioners shall be appointed ^{President,} president of the Commission and another of them ^{etc.} vice-president thereof, by the Lieutenant-Governor in Council.

"6. 1. In case of the absence of the president or of his ^{Vice-}inability to act, the vice-president shall exercise the powers ^{President.} of the president.

2. Whenever the vice-president has acted for or instead ^{Powers.} of the president, it shall be presumed that he so acted in the absence or owing to disability of the president.

"7. Two commissioners shall form a quorum, and not ^{Quorum.} less than two commissioners shall attend at the hearing of every matter submitted to the Commission; provided ^{Proviso.} that,—

1. Whenever there is no opposing party and no notice ^{No quorum.} to be given to any interested party, any one commissioner may act alone;

2. The Commission, or the president, may authorize any ^{Powers.,} one of the commissioners to report to the Commission upon ^{etc., of com-} any matter within the jurisdiction of the Commission or ^{missioner} pending before it, and such commissioner shall have all ^{making} the powers of two commissioners sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report.

"8. The Commission shall decide by the majority, and, ^{Decisions.} if there be a tie, the president shall have a casting vote.

"9. The Commission shall not be dissolved by the death ^{Vacancies.} or resignation of one or more of its members.

"10. If, in the opinion of the Lieutenant-Governor in ^{Replacing of} Council, any commissioner be interested in any matter ^{member by} before the Commission, or if any commissioner be unable ^{Lt.-Gov. in} to act by reason of sickness, absence or other cause, the Lieutenant-Governor in Council may appoint some person to act instead of the said commissioner; and any person so appointed may complete any unfinished business in which he has taken part, even if the commissioner whom he has replaced has resumed his duties or has become able to act.

"11. No commissioner shall hold any office or carry ^{Inconsis-} on any employment inconsistent with the performance of ^{tent em-} his duties, nor shall he, directly or indirectly,— ^{ployment,} ^{etc., pro-}

1. hold, acquire or become interested in, for his own ^{hibited.} behalf, any stock, share, bond, debenture or other security of any public service;

2. have any interest in any device, appliance, machine, patented process or article, or in any part thereof, which may be used for the purposes of the business of a public service.

- Disposal of interest. If, at the time of his appointment, a commissioner possess, or if, after his appointment, he acquire any such thing or any interest therein, as above mentioned, he shall be bound to dispose of the same at once.
- Exclusive attention of commissioners. The commissioners must give their attention exclusively to the work of the Commission and the duties of their office, and must not practise any other profession nor follow any other occupation.
- Place of residence of commissioners. **"12.** Each commissioner shall, during his term of office, reside in such place as the Lieutenant-Governor in Council may, from time to time, determine.
- Place of sittings. **"13.** The Lieutenant-Governor in Council shall fix the place where the Commission shall sit and shall have its office, and shall also provide it with suitable quarters for the holding of its sittings and the transaction of its business generally.
- Special sittings. **"14.** Whenever necessary, the Commission may sit in any part of the Province.
- Sittings at chief-place. Whenever, under this section, the Commission sits at the chief-place of any judicial district, the sheriff shall be bound to place at its disposal suitable quarters for the holding of its sittings.
- Id., elsewhere. In every other place, it may have free use of the County Circuit Court room.
- Secretary. **"15.** There shall be a secretary of the Commission, who shall be appointed by the Lieutenant-Governor in Council, and who shall hold office during pleasure.
- Duties of secretary. **"16.** 1. It shall be the duty of the secretary,—
 - a. to attend all sessions of the Commission, unless excused by the Commission or by the president;
 - b. to keep a record of all proceedings conducted before the Commission or any commissioner under this act;
 - c. to have the custody and care of all records and documents of the Commission;
 - d. to obey all rules of practice and directions which may be made or given by the Commission touching his duties or office;
 - e. to have every order and rule of practice of the Commission drawn pursuant to the direction of the Commission, signed by the president, sealed with the official seal of the Commission, and fyled in the office thereof;
 - f. to discharge all other duties prescribed by the Lieutenant-Governor in Council.

The secretary shall have the power to administer oaths at any sitting or in connection with any proceeding before the Commission.

2. The secretary shall keep suitable books of record, in which he shall enter a true copy of every such order and rule of practice, and every other document which the Commission shall order to be entered therein; and such entry shall constitute and be the original record of any such order or rule of practice. Keeping of books of record, etc.

3. Upon application of any person, and on payment of such fees as the Lieutenant-Governor in Council may prescribe, the secretary shall deliver to such applicant a certified copy of any such order, rule of practice or other document. Delivery of certified copies of orders, etc.

“17. In the absence of the secretary, the Commission may replace him temporarily. Temporary secretary.

“18. Neither the Commission, nor any commissioner, nor the secretary of the Commission, nor any of its officers or employees, shall be personally liable for anything done by it or by him in the exercise of its or his functions. No personal liability.

“19. The president of the Commission shall receive a yearly remuneration of twelve thousand dollars and the other commissioners shall receive a yearly remuneration of ten thousand dollars each. Salary of president and commissioners.

The secretary shall receive such yearly remuneration as may be fixed by the Lieutenant-Governor in Council. Id., of secretary.

“20. The Lieutenant-Governor in Council may also appoint the employees necessary for the proper performance of the duties of the Commission, and provide for their remuneration. Appointment, etc., of employees.

“21. Whenever the Commission, acting within its jurisdiction, appoints or directs any person, other than a member of its staff, to perform any work required by this act, such person shall be paid therefor such sum for services and expenses as the Lieutenant-Governor in Council may, upon the recommendation of the Commission, determine. Remuneration of certain other persons.

“DIVISION III

“PENSIONS OF THE COMMISSIONERS

“22. Sections 236, 237, 238, 239 and 241 of the Courts of Justice Act (Chap. 145) shall apply, *mutatis mutandis*, to the commissioners. Pensions.

The pensions provided for by this section shall be paid in accordance with the provisions of sections 50 and 51. How paid.

"DIVISION IV

"JURISDICTION OF THE COMMISSION

Jurisdiction. **"23.** The Commission shall have exclusive jurisdiction over the public services defined in section 2, and shall exercise a general supervision with regard to such public services.

Powers. **"24.** The Commission is vested with the necessary powers to attain the objects contemplated by the preceding section.

Giving of orders. Particularly, it may give the necessary orders respecting the quality of the service, the equipment, apparatus, means of protection, extension of the works or systems, reports to be made, rules, regulations, conditions and practices affecting the rates and charges or connected therewith.

Holding of inquiries. **"25.** The Commission may hold the inquiries necessary to assist it in attaining the above objects and also to obtain information on the manner in which the said public services comply with the law and its orders or on any other matter or thing within its competence.

Additional jurisdiction: In case of disagreement as to use of roadway, etc. **"26.** The Commission shall also have jurisdiction:
 1. In all questions arising when a public service having the right to enter a municipality for the purpose of placing therein, with or without the consent of the municipality, its poles, wires, conduits or other appliances, upon, along, across, over or under any public road, street, square, water-course, or part thereof, cannot come to an agreement with such municipality, as to the use, as aforesaid, of the roadway or of the water-course in question, or as to the terms and conditions of such use, or when such a public service operating in a municipality cannot come to an agreement with such municipality as to the terms and conditions under which it may continue to make use, as aforesaid, of the public road, street, square, water-course, or part thereof, and applies to the Commission for permission to use or to continue the use thereof, and to fix the terms and conditions of such use or of the continuance of such use; and in such case the Commission may permit, as aforesaid, the use of or the continuance of the use of such public road, street, square, water-course or part thereof, and prescribe the terms and conditions thereof;

Questions as to extension of system, etc. 2. In all questions arising whenever a public service desiring to extend its system, line or apparatus, from a point where it does business to another point or points where it is authorized to do business, cannot come to an agreement

with an intermediate municipality or municipalities, as to the use of some public road, street, square or water-course, or part thereof, applies to the Commission for permission to use such public road, street, square or water-course, or part thereof; and, for the purposes of such extension only, and without unduly preventing the use thereof by other persons or companies already lawfully using the same, the Commission may permit such use, notwithstanding any law or contract granting any other person or corporation exclusive rights with respect thereto, but shall prescribe the terms and conditions upon which such public service may use such road, street, square or water-course, or part thereof;

3. In all contestations arising between a public service and a municipality with reference to the performance of the terms and conditions mentioned in paragraphs 1 and 2 of this section; and the Commission may change such terms and conditions, if, in its opinion, such changes are necessary or desirable; Certain contestations.

4. In all contestations arising from the complaint of any municipality or other interested party that a public service doing business in such municipality fails to extend its service to any part of such municipality; and after hearing the parties and their witnesses, and making such inquiry into such matter as it deems equitable, the Commission may order the extension of such service and fix the conditions under which the same shall be done, including the cost of all necessary works, which it may apportion between the public service and the persons interested of the municipality in any manner it deems equitable. Idem.

5. In all matters referred to the Commission by agreement between a public service and a municipality or any other interested party, and its decision shall then be binding on the parties. Matters referred by agreement.

"DIVISION V

"CONDITIONS OF OPERATING A PUBLIC SERVICE

"27. 1. After the coming into force of this act, no public service may commence the construction or operation of any line, plant, network or system, or any part whatsoever thereof, without previously obtaining the approval and permission of the Commission. Approval required prior to commencing certain works.

2. The Commission shall have power to grant such approval and such permission when it deems that such construction or operation is necessary or useful. Granting of such approval.

3. The provisions of this section shall apply to any extension, alteration or change respecting the line, plant, network or system operated by a public service. Application of section.

Notice in certain case. 4. When the work proposed is required by a public service, other than a municipal corporation, notice must be given to the municipalities interested, by such public service.

Apparatus, etc. "28. Every public service must have and employ apparatus, tools and equipment proper to secure the safety, health, comfort and benefit of the public, and as good, complete and efficient a service as possible.

Extending of line, etc. "29. Whenever the public interest demands, the Commission may order any public service to extend its line, network or system to serve the municipal or other corporations and the persons designated by the Commission.

Provisions applicable. In such case, the provisions of paragraphs 1, 2, 3 and 4 of section 26 shall apply, *mutatis mutandis*.

Ceasing, etc., operations. "30. No public service may wholly or partly cease or suspend operations, without having previously obtained therefor the permission of the Commission.

"DIVISION VI

"DETERMINING OF RATES

Documents to be forwarded to Commission "31. 1. Within such delay as may be fixed by the Commission, notice whereof shall be given in the *Quebec Official Gazette*, and, in the case of new services, within two months after commencing business, every public service shall forward to the Commission:

a. Schedules of all the rates and charges to all its customers, whether individuals, partnerships, municipal or other corporations;

b. Copies of all its classifications, rules, regulations and forms of contract, affecting or pertaining to its rates, charges or services.

Increases subject to approval. 2. No public service shall increase any rate or charge, or so alter any classification, rule, practice or form as to result in an increase in any rate or charge, in any manner whatsoever, except after obtaining the authorization of the Commission upon establishing that such increase is justified.

How rates, etc., to be established. "32. All the rates and charges claimed by a public service must be established in the interest of the consumer and in that of the public service and of the investors (*bailleur de fonds*) therein, and must be fixed with due regard for the economic interests of the Province, the particular conditions of the utilizing and the quality of the service concerned, while assuring a just and reasonable revenue for

such public service, but, taking into account, however, only expenses really and justly inherent to the operating of the said public service.

"33. 1. The Commission, whenever it deems necessary and in the public interest so to do, may, upon its own motion or upon complaint, determine the just, reasonable or sufficient rates, charges, classifications, rules, regulations, requirements, practices or contracts for the public service concerned. Fixing of rates, etc., by Commission in certain case.

2. After the date fixed by the order for the coming into force of such rates and charges, it shall be unlawful for the public service to demand or collect any others than those so fixed; and every rule, regulation, classification, requirement, practice, custom or contract, which has been disapproved by the Commission, shall be no longer employed or followed. Enforcing of such rates, etc.

3. For the exercise of the powers provided by this section, only the real value of the undertaking and only the capital actually and usefully invested shall be considered, in valuing the assets of a public service. How assets to be valued.

4. The Commission is empowered to make an order disapproving or varying the terms and conditions of any contract, existing before the coming into force of this act, respecting the distribution or sale of electricity for light, heat, energy or motive power. Changing of prior contracts.

5. No contract for supplying electric energy for municipal lighting or municipal motive power may be made for a period of time exceeding five years. Duration limited.

6. No contract for the purposes mentioned in the preceding subsection 5, which was made previous to the 15th of May, 1935, for a period of over five years and which has not been authorized or ratified by the vote of the property-owners or by an act of the Legislature, shall have the effect of binding the municipality for a period of more than five years from the date of its signing, if the municipal council adopts a by-law for the municipalizing of the production or of the purchase and sale of the electricity and if such by-law be ratified in accordance with the provisions of this act. Certain contracts not binding.

When the municipalizing by-law adopted in accordance with the above paragraph would have the effect of cancelling an existing contract, the Commission shall, at the request of any party to such contract, determine what sum must be reimbursed to the said party out of the amounts paid by such party in money to the municipality as consideration in the said contract proportionately to the time remaining to run starting from the expiration of the term during which it was in force. Determining of sum to be reimbursed.

"DIVISION VII

"OTHER CONDITIONS TO BE OBSERVED BY PUBLIC SERVICES

Conforming
to orders.

"34. Every public service must conform to the orders of the Quebec Public Service Commission rendered under the authority of section 29 of the Public Service Commission Act.

Authoriza-
tion to mu-
nicipalities
to bring
complaint,
etc.

"35. Every municipal council, whenever it deems that the interests of the public in a municipality or in a considerable part of a municipality are sufficiently concerned, may, by resolution, authorize the municipality to become a complainant or intervenant in any matter within the jurisdiction of the Commission; and, for that purpose, the council is authorized to take any steps, and to incur any expense and to take any proceedings necessary to submit the question in dispute to the decision of the Commission, and if necessary to authorize the municipality to become a party to an appeal therefrom.

Action by
Commission
following
certain
complaints.

"36. If the Minister of Lands and Forests, a municipality or any party interested, make complaint to the Commission that any public service, municipal corporation, company or person has unlawfully done or unlawfully failed to do, or is about unlawfully to do or unlawfully not to do something relating to a matter over which the Commission has jurisdiction as aforesaid, and prays that the Commission do make some order in the premises, the Commission shall, after hearing such evidence as it may think fit to require, make such order as it thinks proper under the circumstances.

Powers.

"37. The Commission shall have all the necessary powers to enforce the provisions of this act.

Revising,
etc., of deci-
sions, etc.

"38. Upon application made for that purpose, or upon its own motion, the Commission may revise, change or annul a decision, order or rule, previously given or made.

"DIVISION VIII

"SALE, MERGER, CAPITAL AND ACCOUNTS OF PUBLIC SERVICES

Merging,
etc., of
public
services.

"39. Every sale of a public service to another public service, and every merger of two or more public services, shall be subject to the consent of the Commission and shall have effect only after publication, in the *Quebec Official Gazette*, of the order authorizing it.

When a public service applies to the Commission to Exchange obtain exchange of services with another public service of the same kind. the Commission may give such order as it may deem to be in the public interest respecting the connecting of the lines, and determine the compensation and the other conditions for such exchange of services.

"40. All capitalization of a public service, whether by issues of stock or bonds or by share dividends, shall be subject to the supervision and control of the Commission.

"41. The Commission may, by an order, establish a uniform system of bookkeeping to be followed by every public service, and may, at any time, make a complete examination of the books, accounts, contracts and other documents of a public service, and require the delivery, at any time, of reports from it enabling the Commission to exercise the control and supervision prescribed by this act.

"DIVISION IX

"APPROVAL OF PRIVILEGES OBTAINED BY A PUBLIC SERVICE

"42. No contract or other document by which a municipal corporation grants to a public service the privilege of operating, within the municipality concerned, a system for producing, transmitting, delivering or selling electricity for light, heat, energy or power purposes, shall have effect until approved by the Commission.

"DIVISION X

"DUTIES AND FEES

"43. The Lieutenant-Governor in Council may make, amend, replace and repeal all tariffs of fees payable to the Commission, in connection with any matter submitted to it.

The fees so paid shall serve to repay to the consolidated revenue fund the payments made under section 50 out of the said fund.

"DIVISION XI

"PROCEDURE AND APPEAL

"44. The provisions of Divisions VII and VIII of the Quebec Public Service Commission Act (Chap. 17), respecting procedure and appeal, shall be deemed to form part of this act, except sections 42, 46, 55, 56 and 58, for which the following sections are substituted.

Special
powers of
commis-
sioners, etc.

"45. The Commission, any commissioner, or any person authorized by the Commission to make any inquiry or report, may,—

1. enter upon and inspect any place, building or work, being the property or under the control of any public service;

2. inspect any work, structure, rolling-stock or other property of such public service;

3. require the attendance of all such persons as it or he thinks fit to summon and examine, and take the testimony of such persons;

4. require the production of any book, plan, specification, drawing or document;

5. administer oaths, affirmations or declarations—, and shall have the like powers to summon witnesses, enforce their attendance, and compel them to give evidence and produce the books, plans, specifications, drawings and documents which it or he may require them to produce as mentioned in section 40 of the Public Service Commission Act (Chap. 17).

Control by
Commis-
sion over
works or-
dered to be
done, etc.

"46. When, in the exercise of any power conferred upon it by this act or by any other act, the Commission directs the performance of any work by any person other than a member of the staff, under section 21, or directs any structure, appliance, equipment or work to be provided, constructed, reconstructed, altered, repaired, installed, used or maintained, it may order by what company, municipality or person interested, and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision, such work shall be carried out.

Adjudica-
tion upon
costs.

"47. In every matter submitted to it, the Commission shall adjudicate upon the costs incurred by it or by the parties, and impose such costs at its discretion.

Transmis-
sion of an-
nual report.

"48. 1. The Commission shall, in the month of July in each year, transmit to the Minister of Lands and Forests, for the year ending on the thirtieth day of June previous, a report showing briefly,—

a. Applications to the Commission and summaries of the orders made thereon;

b. The number and the nature of the inquiries, which it has held of its own motion;

c. Such matters as the Lieutenant-Governor in Council may direct.

Laying
thereof be-
fore Houses.

2. The report shall be laid before both Houses of the Legislature during the first fifteen days of the then next session.

"49. An appeal shall lie to the Court of King's Bench Appeals to (Appeal Side) in conformity with article 47 of the Code of Court of Civil Procedure, from any final decision of the Commission King's Bench. upon any question as to its jurisdiction, or upon any question of law, but such appeal may be taken only by leave of a judge of the said court, given upon a petition presented to him within fifteen days from the rendering of the decision, or from the homologation thereof in cases where the same is required, notice of which petition must be given to the parties and to the Commission within the said fifteen days. The costs of such application shall be in the discretion of the judge.

"DIVISION XII

"PAYMENT OF EXPENSES AND VARIOUS PROVISIONS

"50. The remunerations prescribed in sections 19 and 20, and all the expenditure incurred by the Commission in the performance of its duties, including all reasonable travelling expenses actually incurred by the commissioners, the secretary and such members of its staff as may be required by the Commission, shall be paid monthly out of the consolidated revenue fund of the Province. Payments out of con. revenue fund.

"51. The Lieutenant-Governor in Council may adopt, amend or repeal, from time to time, regulations to cause to be paid, by the public services coming under the scope of this act, the expenses provided for in section 50, and, for such purpose, may determine the basis of apportioning such expenses and the manner and time of payment. Regulations by Lt.-Gov. in C.

Whenever the Lieutenant-Governor in Council has issued an order under the preceding paragraph, the sums collected from the public services under this section must first be employed in reimbursing the consolidated revenue fund out of which such expenses were paid. Use of monies collected.

"52. Unless it be specifically indicated in the context, no obligation imposed upon any public service shall apply to a public service operated or to be operated by any municipal or governmental corporation. Nevertheless, section 34 shall apply to all public services. Exemptions from application of act.

"53. The Minister of Lands and Forests shall be charged with the carrying out of this act." Carrying out of act.

2. From and after the date fixed by the proclamation contemplated by section 3 of this act, the provisions contained in the following annex shall come into force, and shall be enacted, amended or repealed to the extent indicated in the said annex. Coming into force of certain provisions.

ANNEX

A. The act 24 George V, chapter 10, intituled: "Electricity Rates Act", is repealed.

B. Section 456a of the Cities and Towns' Act (Revised Statutes, 1925, chapter 102), as enacted by the act 21 George V, chapter 56, section 2, is amended by replacing the words: "Quebec Public Service Commission", in the sixth line thereof, by the words: "Quebec Electricity Commission".

C. Article 408 of the Municipal Code is amended by replacing the words: "Public Service Commission", in the sixth line of paragraph 5b thereof, as enacted by the act 21 George V, chapter 114, section 6, by the words: "Electricity Commission".

D. The Public Service Commission Act (Revised Statutes, 1925, chapter 17) is amended:

a. By replacing sub-paragraphs *d* and *e* of paragraph 2 of section 2 thereof, as replaced by the act 16 George V, chapter 16, section 1, by the following:

"*d.* for the production, transmission or sale of light, heat or power otherwise than by electricity; or

e. for a waterworks system or for a sewer system; and";

b. By striking out subsection 2 of section 28e thereof, as enacted by the act 16 George V, chapter 16, section 6.

Coming into
force.

3. The provisions of sections 3 to 21, inclusive, of the Quebec Electricity Commission Act, enacted by the foregoing section 1, shall come into force on the day of the sanction of the present act, and the remaining provisions of the present act shall come into force on such date as it may please the Lieutenant-Governor in Council to fix by proclamation.