

SOUTH-WEST ELECTRIC POWER.

17^c GEO. V., No. LXII.

No. 62 of 1926.

AN ACT for the constitution of a Trust for the construction, maintenance, and management of Works for the generation and supply of Electricity within a prescribed area in the South-West Division of the State, and for other relative purposes.

[Assented to 24th December, 1926.]

Preamble.

WHEREAS the Municipality of Bunbury and the Municipal Council of Collie are desirous that authority should be granted for the construction and management of works for the generation and supply of electricity within a portion of the South-West Division of the State: And whereas it is expedient to grant such authority, and to enable the necessary capital to be raised, and to make provision for the constitution and incorporation of a Trust to construct, control, manage, and operate such works, and to exercise such further powers as are conferred on the Trust by this Act: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *South-West Electric Power Act, 1926*, and shall come into operation on a day to be fixed by proclamation.

Interpretation.

2. In this Act, subject to the context—

“ District ” means the district constituted by section three of this Act.

“ Electric line ” means and includes any wire conductor or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, tube, pipe, or insulator enclosing, surrounding, or supporting the same or any part thereof, and any apparatus connected therewith for the purpose of conveying, transmitting, or distributing electricity.

“ Electric works ” or “ works ” means and includes electric lines, meters, accumulators, fittings, and apparatus for the supply of electricity, and also any buildings, machinery, engines, or things of whatever description required to generate or supply electricity, or to carry into effect the purposes of this Act ;

“ The said municipalities ” means the municipality of Bunbury and the Municipal Council of Collie.

“ Treasurer ” means the Minister of the Crown for the time being performing the duties of Treasurer of the State.

“ Trust ” means the South-West Electric Power Trust constituted by this Act.

“ Undertaking ” means the electric and other works of the Trust, and all land, buildings, appurtenances, machinery and plant at any time used or required in connection therewith.

3. For the purposes of this Act a district, to be known as the South-West Electric Power District, is hereby constituted ; and such district shall comprise all land situated within a circle with a radius of forty miles from the Town Hall at Collie :

The district.

Provided that the Governor may, by proclamation, extend the boundaries of the district.

4. (1) There shall be a Trust to be called the South-West Electric Power Trust.

The Trust.

(2) The Trust shall be a body corporate with perpetual succession and a common seal.

5. (1) The Trust shall consist of five members, of whom one shall be appointed by the Municipality of Bunbury, one by the Municipal Council of Collie, and three by the Governor.

Constitution of Trust.

(2) The member to be appointed by each of the said municipalities shall be appointed by a resolution of the council at a meeting convened for that purpose.

(3) Notice of the appointment of the members of the Trust shall be published in the *Gazette*, and such notification shall be conclusive evidence that the appointments were duly made.

6. (1) Every member of the Trust shall hold office for the term of three years, and, at the expiration of his term of office, shall be eligible for re-appointment for a like term.

(2) When a vacancy occurs in the Trust it shall be filled up in the manner hereinbefore provided, and the member appointed to fill the vacancy shall hold office during the period for which his predecessor would have held office.

(3) The Trust may act notwithstanding a vacancy in its membership.

7. No person shall be or continue a member of the Trust who—

(1) Shall hold any office or place of profit under the Trust ; or

(2) By himself, his partner, or otherwise, shall have any interest in any contract with or employment under the Trust, except in respect of any lease, sale, purchase or acquisition of land, or as a consumer of electric current under this Act: Provided that no person shall be disqualified by being a member or shareholder of or in an incorporated company by reason of any contract entered into by such company with the Trust ; but no member interested in any contract with the Trust excepted as aforesaid, or being a shareholder in any such company, shall vote at any meeting of the Trust on any question relating to any contract in which such member or company is interested.

8. The office of a member of the Trust shall be vacated in case of his—

(1) death, lunacy, bankruptcy, execution of a statutory deed of assignment for the benefit of his creditors, or conviction for any indictable offence :

Term of office of members of Trust.

Disqualification of members.

Vacation of office.

- (2) absence without leave of the Trust from three consecutive ordinary meetings of the Trust, followed by resolution of the Trust declaring the office vacant ;
- (3) disqualification as hereinbefore provided ;
- (4) resignation by notice in writing delivered to the Trust.

9. (1) The Governor shall, from time to time, appoint a member of the Trust to be the chairman, who shall have a casting as well as a deliberative vote. Appointment of chairman of Trust.

(2) When the chairman is absent from any meeting, the members present shall appoint one of their number to be chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote.

10. At all meetings of the Trust three of the members shall form a quorum, and the decision of a majority of the members of the Trust regarding any matter shall be deemed to be the decision of the Trust. Quorum.

11. The chairman and each other member of the Trust shall be paid out of the funds of the Trust, by way of remuneration for his and their services, such fees as the said municipalities may by resolution of the council determine and the Governor approve. Payment to members of Trust.

12. The Trust—

- (1) may in its corporate name acquire, purchase, hold, mortgage, lease or dispose of land and other property for the purposes of this Act, and may sue and be sued in all Courts, and be a party to arbitration ;
- (2) may obtain expert advice upon the carrying out of the undertaking, and may, from time to time, appoint and employ a secretary, and such engineers, officers, and servants as it thinks fit ;
- (3) may delegate to any officer any of its powers as it thinks fit, and may alter, vary, or revoke such delegation ;
- (4) may do all such acts and things as may be necessary or expedient for carrying out the undertaking, and the purposes of this Act.

Power of Trust as to acquisition of property, appointment of officers, etc.

The municipalities may raise £110,000 and advance the same in exchange for Trust's debentures.

13. (1) For the purposes of this Act the said municipalities may, under and subject to Part XXIV. of the Municipal Corporations Act, 1906, borrow the sum of one hundred and ten thousand pounds in the following proportions, namely:—the sum to be raised by the Municipality of Bunbury shall be sixty thousand pounds, and the sum to be raised by the Municipal Council of Collie shall be fifty thousand pounds:

Provided that the provisions of the said Act relating to the restriction of the amount that may be borrowed shall not apply, and that the sums so borrowed shall not be taken into account in estimating the amount which may be borrowed for other purposes by the said municipalities, and shall not be subtracted from ten times the average income of the said municipalities in making such estimate:

Provided also, that it shall not be necessary to provide a sinking fund for the repayment of any such loan during the first two years after the raising thereof.

(2) The amounts to be so raised shall be advanced by the said municipalities to the Trust, and the repayment with interest shall be secured by the debentures of the Trust.

Advance by Treasurer.

14. The Treasurer may, under and subject to Part III. of the Industries Assistance Act, 1915, advance to the Trust the sum of one hundred and ten thousand pounds, on the security of the debentures of the Trust.

Additional capital.

15. If the amount raised by the said municipalities and advanced to the Trust, together with the amount advanced by the Treasurer, under the preceding sections, is insufficient to provide for the capital cost of the undertaking, the said municipalities shall, in the same proportion, borrow and advance to the Trust, under the provisions of section thirteen of this Act, one half of the additional capital required, and the Treasurer may, with the approval of the Governor, advance one half of such additional capital, under the provisions of section fourteen.

Trust debentures to be issued for advances.

16. For the purpose of securing the repayment of all moneys advanced by the said municipalities and by the Treasurer as aforesaid, and the interest thereon, the Trust shall and is hereby empowered to issue debentures as a charge on the property and revenue of the Trust.

17. The Trust may, within the district—

Powers of Trust.

- (1) Erect, construct, and maintain an electric generating station, transmission cables and lines, accumulators, transformer stations, and all other works of every kind that may be necessary or expedient for the generation and distribution of electricity for power, light, and other purposes, and make such contracts relating thereto as it may think fit.
- (2) Enter into agreement with the Government to impound, divert, and take such water of the Collie river and the Minningup pool, as may be agreed, and to construct and maintain all such works as may be deemed by the Trust to be necessary or expedient for the purpose.
- (3) Acquire all such land and other real and personal property, machinery, plant, and effects, and enter into such contracts and agreements as the Trust may think fit for the carrying out of the objects and purposes of this Act.
- (4) Carry on the business of suppliers of electricity, and the manufacture of and dealers in all apparatus and things required for or capable of being used in connection with the generation, distribution, supply, accumulation, and employment of electricity.

18. The Trust, in the exercise of its powers and for the purposes of this Act, shall be deemed a local authority within the meaning of the Public Works Act, 1902, and the Electric Lighting Act, 1892, and the provisions of those Acts are, *mutatis mutandis*, and subject to this Act, incorporated herewith.

Application of
Public Works Act
and Electric Light-
ing Act.

19. (1) The Trust shall erect at Collie and at Bunbury substations suitable for the requirements of the said municipalities, and shall, at all times, maintain a plant of such capacity as will ensure the supply of electricity to meet such requirements.

Substations for
municipal require-
ments.

(2) Electricity shall be supplied by the Trust to the said municipalities in bulk at an agreed or prescribed charge.

20. The Trust may contract with mining companies in the district for the supply of electric current at their respective mines, at such price, for such period, and on such conditions as the Trust may think fit.

Supply of current
to mines.

Application of
revenue.

21. (1) The Trust shall apply the revenue to be derived from the undertaking—

- (a) in paying the interest in respect of the money advanced to the Trust by the said municipalities and the Treasurer ;
- (b) in paying to the said municipalities an amount equal to the annual contributions to the sinking funds established under Part XXIV. of the Municipal Corporations Act, 1906, for the redemption of the debentures issued by the said municipalities for money borrowed under section thirteen and fifteen, such payments being *pro tanto* a redemption of debentures issued by the Trust ;
- (c) in payment to the Treasurer of an annual contribution to a sinking fund established at the Treasury for the redemption of the debentures to secure the Treasurer's advances ;
- (d) in paying the expenses of controlling, managing, operating, and maintaining the undertaking, and other expenditure lawfully incurred by the Board, including such contributions to a maintenance reserve fund as the Trust thinks expedient ; and
- (e) in establishing a renewal fund for providing for the renewal of any part of the undertaking.

(2.) The balance, if any, of such revenue, after a renewal reserve fund of fifty thousand pounds has been established, shall be annually divided between the said municipalities in the following proportions, namely: The Municipality of Bunbury six-elevenths thereof, and the Municipal Council of Collie five-elevenths thereof.

Minutes and
accounts.

22. (1.) The Trust shall cause proper minutes or records of all its proceedings to be kept. Every minute or record purporting to be signed by the chairman of the Trust, and every document purporting to be certified as a correct copy of any minute or record under the hand of the chairman, shall be presumed to be the minute or record or a correct copy thereof, and shall be evidence of the matters therein stated according to its purport.

(2.) The Trust shall, within one month after the thirtieth day of June and the thirty-first day of December in every year, prepare a financial statement setting forth

the revenue and expenditure of the Trust during the last preceding six months, and also the assets and liabilities of the Trust as on those days. Every such statement shall be signed as correct by all the members of the Trust, and a copy thereof shall be sent forthwith to the Treasurer and to each of the said municipalities.

(3.) The Trust shall, in addition to the financial statements mentioned in the preceding subsection, keep, render, make, and publish all such books, accounts, records, returns, and statements as the Trust shall think necessary and as shall be required by the Treasurer.

23. The Trust shall in each year cause its accounts to be Audit: audited by two fit and proper persons appointed for the purpose by the Trust, with the approval of the Treasurer; and such auditors shall have access to the books of account and vouchers whenever they shall think necessary:

Provided that the Treasurer may at any time cause the accounts of the Trust to be audited by the Auditor General, and the Auditor General and his officers shall, for such purpose, have all the powers vested in him and them by law in relation to the audit of public accounts.

24. (1) The Trust may make by-laws for all or any of By-laws. the following purposes:—

- (a) The times and places of its meetings, and the conduct of its proceedings and business.
- (b) The duties, control, supervision, and guidance of its officers and servants.
- (c) The use of its common seal.
- (d) The construction, due management, maintenance, repair, use, and protection of the electric works, and other property of the Trust.
- (e) Preventing and remedying the waste, misuse, or undue consumption of electricity.
- (f) Prescribing scales of charges for electricity supplied, and the minimum quantity to be charged for, and the rent for the use of meters, fittings, and other apparatus, and the conditions on which electricity is supplied.
- (g) Providing for the recovery by action or summary proceeding of any such charges.

- (h) Providing for the recovery of any such charges by distress in the same manner as rent is recoverable, and for making such charges a charge on any premises in respect of which they have been incurred, and for the registration and enforcement of any such charge.
 - (i) Prohibiting any alteration of or interference with any meter, fittings, or other apparatus without the consent of the Trust, and prohibiting the sale, without the consent of the Trust, by any person of any electricity supplied.
 - (j) Enabling the Trust to repair meters, fittings, or other apparatus used in connection with the supply of electricity to any person, and enabling the Trust to recover the costs of such repairs from any person by or to whom the same are respectively owned or let.
 - (k) The inspection of all meters, fittings, and apparatus.
 - (l) Prohibiting the performance of work in connection with electric works or any meter, fittings, or other apparatus used for the supply of electricity under this Act, except by persons licensed or authorised pursuant to the regulations under the Electric Lighting Act, 1892, or as prescribed.
 - (m) Exempting the Trust from liability for failing to supply electric current if prevented from doing so by accident, damage to works, or any cause beyond its control.
 - (n) For all other purposes that may be necessary or expedient for carrying into effect the provisions of this Act.
 - (o) Imposing a penalty not exceeding twenty pounds for the breach of any by-law.
- (2) Such by-laws shall be subject to confirmation by the Governor, and the provisions of section thirty-six of the Interpretation Act, 1915, shall apply.

Saving of powers of
Commissioner of
Railways.

25. Nothing in this Act shall be deemed to affect the powers conferred on the Commissioner of Railways under the Government Electric Works Act, 1914, or to prevent the Commissioner of Railways from at any time erecting a generating station within the district and transmitting electricity therefrom to any part of the State; but the Commissioner of Railways shall not supply electricity within the district except for railway or other Government purposes, or to the Trust.