

# STATE ENERGY COMMISSION (VALIDATION).

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No. 66 of 1978.

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AN ACT to make provision in respect of the purported exercise by the State Energy Commission of certain powers.

[Assented to 26th September, 1978.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *State Energy Commission (Validation) Act, 1978.* Short title.

2. This Act shall come into operation on the day on which the State Energy Commission Act Amendment Act, 1978, comes into operation. Commencement.

Interpre-  
tation.

3. In this Act—

“Commission” means the body corporate known as The State Energy Commission of Western Australia preserved and continued in being by section eight of the principal Act and includes the body corporate previously known as The State Electricity Commission of Western Australia constituted pursuant to the principal Act;

“the amending Act” means the State Energy Commission Act Amendment Act, 1978;

“the principal Act” means the State Electricity Commission Act, 1945, as from time to time amended and now intituled the State Energy Commission Act, 1945-1978.

Validation of  
financial  
matters.

4. Notwithstanding that the Commission has, prior to the coming into operation of this Act, purported to exercise powers not then conferred upon the Commission of a kind that by virtue of the amending Act are now conferred upon the Commission, the exercise of any power or the doing of any act, matter or thing with respect to which provision is made in the amending Act which was exercised, made, done or executed by the Commission before the coming into operation of the amending Act and which would have been lawful had the amending Act then been in force at that time is deemed to be and to have been duly authorised, to have been lawfully and properly executed, and to have been given all necessary approvals.

Validation of  
Treasurer's  
guarantee.

5. In so far as any specific guarantee has been given by the Treasurer on behalf of the State in respect of any undertaking (within the meaning of that term as defined in the principal Act) of the Commission, the Treasurer shall be deemed to be and to have been authorised to give and implement that guarantee in the terms of the amending Act and the procedures relating thereto shall be deemed to have been lawfully and properly carried out.

6. Where under the provisions of the principal Act—

Validation of  
undertakings  
and  
contracts.

- (a) any matter or thing would have been within the meaning of the term “undertaking” as thereby defined had that matter or thing been approved by the Governor; or
- (b) a contract made by the Commission that should have been ratified in the manner thereby required, was not so ratified,

any such matter or thing shall be deemed to be and always to have been an undertaking, or part of an undertaking, approved by the Governor, and any such contract shall be deemed to be and to have been so ratified, as the case requires, lawfully and properly in accordance with the provisions of the principal Act, and the procedures relating thereto shall be deemed to have been lawfully and properly carried out.

7. (1) Where prior to the coming into operation of this Act the Commission has—

Validation of  
tariffs,  
charges etc.

- (a) purported by means of any published tariff, schedule or table to fix any fee or charge or the conditions of any supply, although not published in by-laws or otherwise in the *Government Gazette*; or
- (b) made or demanded any re-connection fee, connection fee, service fee, account establishment fee or fixed charge or assessed any charge *pro rata*, or received any moneys or value, pursuant to any such tariff, schedule or table, or in respect of any such fee or charge; or
- (c) otherwise acted pursuant to the conditions of supply so published,

in relation to electricity or other power supplied, or any meter or appliance rented, service rendered, account established or transferred, or other matter undertaken by the Commission, that tariff, schedule or table and that fee or charge shall be deemed to have been lawful and any such moneys to have been

lawfully received, and any moneys demanded but unpaid, or to be demanded, in accordance with such a tariff, schedule or table or in respect of such a fee or charge may be recovered by the Commission in a court of competent jurisdiction unless it is established that the demand was not justified by reason of non-supply, mistake or other cause not limited to the failure by the Commission to comply with the provisions of the principal Act in regard to the making of by-laws or the levying of fees and charges.

(2) Where prior to the coming into operation of this Act the Commission has—

(a) demanded or received from any person—

(i) any moneys; or

(ii) any guarantee, indemnity or other surety,

whether or not pursuant to a contract, to be held by or on behalf of the Commission as a deposit or security for or on account of fees and charges payable or to become payable to the Commission in respect of a supply effected or to be effected or to cover the cost of Commission property on the premises of the consumer;

(b) failed to allow interest or to pay interest from time to time pursuant to the conditions of any contract, or purported contract, in respect of moneys so deposited;

(c) failed to refund, or make a credit in respect of, any moneys so deposited upon the continuance of the purported contract coming to an end or the relevant supply being discontinued, or otherwise upon lawful demand;

(d) incorrectly appropriated or improperly credited any moneys so deposited or any such fees, charges or other moneys due to, or demanded by, or paid erroneously to, the Commission;

- (e) failed to account correctly for deposits made by a person in respect of premises to be named from time to time, or to the depositor in respect of premises no longer occupied by the depositor as occupier,

then any such deposit or security shall be deemed to have been made or given pursuant to a condition of the supply to be effected or continued and to have been lawfully received and dealt with by the Commission, without liability for the payment of interest thereon where no rate was determined in respect thereof, and may be retained by the Commission as income derived from the business carried on by it under the authority of the principal Act until such time as it is refunded to, or is credited to the account of, the consumer, and where no refund or credit can be so effected the amount in question shall be dealt with as though it was unclaimed money held by the Commission as a company within the meaning of the Unclaimed Moneys Act, 1912. .

8. The by-laws published in the *Government Gazette* on the 23rd June, 1978, and cited as the State Energy Commission (Electricity and Gas Charges) By-laws, 1978, shall be deemed to be, and to have been, validly and lawfully made and published under and within the authority of the principal Act.

Validation of  
by-laws.

9. It is hereby expressly enacted that no proceedings shall lie, or be continued, in relation to any cause of action which could not have been brought or sustained had this Act been in operation prior to the time on which the cause of action arose.

Prohibition  
of certain  
actions.

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