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Water-Power Administration in Canada

Summary of Fourteen Articles of Existing Laws, Regulations and Practices in Common to Each of the Four Canadian Jurisdictions, Quebec, Ontario, Prairie Provinces and Territories, and British Columbia

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ANY summary of water-power legislation and practice, as it exists in Canada to-day, must necessarily be more or less incomplete and unsatisfactory. The whole question of procedure has been in process of evolution during the past 20 years.

This process will probably continue for some years before a satisfactory working policy is finally established. To-day, almost every new lease has some small change from its predecessor. Policies are, so to speak, in the formative stage. Administrators are therefore loath to state in precise terms the details of the policy of their particular government, and it is not always possible for others to do this accurately from an inspection of the meagre laws and regulations which have been published.

Dominion

(Prairie Provinces and Territories.)

(1)—Definite term lease plan adopted. (Dom. Lands Act, sec. 35, and Regls. of 1909).

(2)—Application Procedure. The applicant files a written application with the Minister of the Interior, giving statistical data and accompanied by sketch plans. The Minister may call for such other plans and information as he may deem necessary, and if he approves of the proposed scheme of development, an agreement for a license may be entered into setting out the time for commencement of the works, the minimum expenditure in first and second years, the amount of power to be developed within five years, the lands which may be occupied and the basic terms of the license which will be granted upon completion of the works. (Regls. of 1909).

(3)—Term of license twenty or twenty-one years, renewable for three further consecutive terms of the same length unless the Governor in Council orders cancellation at the expiry of any term. (Do. sec. 8 (a) & (b)).

(4)—Renewal provisions may include new conditions, and will in all likelihood subject the licensee to the laws and regulations then in force, because, if the licensee does not agree, the Governor in Council may cancel. (Do. 8 (b)).

(5)—Inspection during and after construction, enabling the securing of cost data and the most approved construction. (Do. 8 (L)). Licenses generally provide that the Minister may have both consulting and resident engineers on the work and their salaries are paid by the licensee.

(6)—Compensation paid if license terminated as above, based on values of physical properties, without the inclusion of "going concern" or other so-called intangibles.

(7)—Rentals revisable at beginning of each term of twenty-one years. (Do. 8 (a)).

(8)—Development, up to the full capacity of the works authorized, may be ordered by the Governor in Council as public demand requires. In default of compliance the extreme penalty of cancellation without compensation may be exercised. (Do. 8 (h)).

(9)—Where a more comprehensive development of the site is shown desirable, and the licensee, after notice, fails to proceed, the Government may take over the works paying a bonus over the appraised value of the physical properties

of from thirty to ten per cent. according to the length of occupancy. (Do. sec. 8 (i)).

(10)—Stream Regulation and Control. All recent agreements and licenses provide that the Minister may control the manner of diverting the waters authorized so as not to interfere with the maximum advantageous development of the power resources of the river on which the site is located, and that the Minister may regulate the flow of the river in the interests of all users. A further condition is that the Government may construct storage or regulating works and may pro-rate their cost and upkeep among the various licensees on the stream, the Minister to fix the rental for the additional flowage created.

(11)—Rates charged consumers subject to revision every seven years. (Do. 8 (k)).

(12)—Cancellation Features. On default of licensee in complying with terms, license subject to cancellation by the Exchequer Court on application of the Crown. (Do. 8 (j)).

(13)—Agreements have in some cases contained clauses providing that contractors shall be subject to any general regulations thereafter passed. Others are made subject to the general regulations then in force or thereafter passed "in so far as not inconsistent with the terms of this agreement."

(14)—Transfer of license requires written consent of Minister. (Do. 8 (j)).

Ontario

(1)—Definite term lease plan adopted. (Public Lands Act, R. S. 1914, chap. 28, sec. 58 and Regls. of 1907).

(2)—Application Procedure. Applicant must in every case file plans and field notes by an Ontario land-surveyor and a report by a competent engineer, setting forth the entire scheme of development, its extent, its scope, the precise lands affected, the use to be made, the business to be carried on in connection therewith, and the estimated cost of the whole. Also, if, and as called for by the Minister, any additional measurements, specifications, profiles, plans, or other data. The Minister may refer plans to Hydro-Electric Power Commission and the applicant cannot proceed unless the commission approves the same. Applicant must also submit proof of financial standing and ability to carry out development and deposit with provincial treasurer a sum of money named by the Minister to guarantee performance before lease is issued. Lease calls for development and use of specified horse-power within a period named. (Regls, 1907, secs. 4, 5, 6, 7, 12a).

(3)—Term of lease, twenty years. Renewable for two further periods of ten years each, if lessee and Minister can agree on terms. (Do. 9).

(4)—Renewal lease does not necessarily perpetuate the terms of the original lease. Renewal conditions are such "as may be agreed upon or may be fixed by the Minister". (Do. 9).

(5)—Inspection during and after construction to ascertain if plans carried out and to determine the quantity of