

STILL ANOTHER UNSATISFACTORY OFFER SUBMITTED

Power Company Now Trying to Get City to Agree to Arbitration

THIS SUGGESTION
ALSO FROM BODELL

Mayor Tells About It at Conference With Power Commission—To Bring It Up at City Hall Today—Further Talk For and Against Retaining Safe-guard Clause in Hydro Contract.

In opening the meeting between the city commissioners and the members of the New Brunswick Electric Power Commission yesterday to discuss the proposed contract for the Musquash energy, the mayor announced that the New Brunswick Power Company would agree to arbitration in connection with the sale of its property to the city. If this offer of arbitration—which the citizens will undoubtedly resist with all the power at their command—was not acceptable to the city council, he proclaimed his willingness to take over the power company property from the hydro commission, if they would expropriate it, which it is known the commission has no intention of doing.

Some progress was made in the discussion of the proposed contract. Although the mayor declared his intention of taking no part in the discussion during the session, he changed his mind apparently.

There was further discussion of the section relating to the city being prevented from handling the power for others for resale, and the clause was allowed to stand for further consideration. All the other sections were agreed to tentatively—except, of course, that the contentious sections were passed later.

Those in attendance included the mayor and all the city commissioners; Dr. J. B. M. Baxter, K. C., city solicitor; Premier Foster, Hon. Dr. E. A. Smith, chairman of the Power Commission; C. O. Ross, chief engineer; Gordon Kribs, consulting engineer, and J. D. P. Levin, solicitor for the Power Commission.

Another Move.

Calling the meeting to order, the mayor read a statement, in which he referred to the turning down of different recommendations of his by the council, expressed the opinion that "a steam station as a standby is necessary," and said that he had succeeded, "through Mr. Bodelle," in getting the New Brunswick Power Company to offer to arbitrate the sale of its property to the city. "If this offer of arbitration is acceptable," the statement read, "I will favor the execution of a contract with the hydro commission for the Musquash power. If it is not acceptable, I wish to advise the hydro commission that if they will expropriate all of the property of the New Brunswick Power Company I will on my part agree to vote on behalf of the city to take it from the hydro commission at the cost to them. The city has no power of itself to expropriate the New Brunswick Power Company property. I further understand that the hydro commission can expropriate for the city only such property as lies within the city limits, and they cannot expropriate the gas property, and there is some doubt about the railway property. I am also advised that to dismember the property in this manner would probably result in an award of damages, which added to the cost of expropriation, might exceed in value the cost of the entire property. I believe the hydro commission is in a position to secure from the government the necessary power to expropriate all the property, and if the hydro commission will agree to do this I will favor the execution of a contract for the Musquash power."

For Expropriation.

"Furthermore, if the hydro commission does expropriate all the property of the New Brunswick Power Company, the water rights owned at present by the New Brunswick Power Company on the Lepreau and Magaguadavic rivers should be included, as I believe the city should own these water rights until such time as they are needed to be developed for the electrical business of St. John, and I am willing to agree that when that time arrives that the city will sell to the hydro commission these water rights provided they are developed exclusively for use of St. John. I am firm in this conviction, because the hydro commission has given the city of Moncton a preferential right to the purchase of a considerable portion of the power of Musquash, and as the power requirements of the city of St. John are now very large and may be considerably extended, the city should be in a position to secure its energy under the most favorable circumstances."

"I will call a special meeting of the city council for tomorrow morning to consider this offer of arbitration, and upon the conclusion of such meeting will immediately notify your commission of the action taken."

Will Discuss Proposition.

When the mayor had concluded Commissioner Bullock expressed the opinion that the council should go ahead and discuss the proposed contract regardless of this turn of affairs. This attitude was also taken by the other commissioners.

The mayor said that so far as he was personally concerned he was not going to take part in the discussion.

Commissioner Wigmore expressed his pleasure to see that the matter had arrived at a point where they were talking of expropriation, but he, too, thought that a discussion of the proposed contract should continue.

The mayor again joined in to say that there were two or three things in the proposed contract to which he was personally opposed. He would therefore take an interest in the discussion, but he did not intend to participate.

Consideration of the proposed contract from the place where the committee

had stopped at the last meeting was then proceeded with.

An Agreement.

Section 6, having to do with the right of the commission to discontinue the supply temporarily for repairs, etc., Dr. Baxter suggested that the city secure legislation to make this clause a part of all contracts between the city and consumers, as this would automatically relieve the city of any claim for damages on account of a shut-down. This section was agreed upon with this understanding.

Section 7, dealing with the granting of permission to representatives of the city and the commission to inspect each other's installations, was also agreed to.

Considerable discussion developed over section 8, which provided for the relief of the commission or the city from any claim for damages due to a stopping of the supply on account of strikes, lock-outs, fire, explosion, act of God or the king's enemies, or any other cause beyond the control of the commission, or the city respectively, in which case the commission would not be bound to deliver or the city to receive distribute or pay for such electric energy during such periods.

A Definition.

Dr. Baxter suggested the addition of the following words: "And the total quantity to be agreed upon to be paid for by the city, whether used or not, should be reduced by the average amount, which would have been consumed during the period of discontinuance, this average to be arrived at by taking the previous and subsequent months' consumption and averaging them. The words, 'act of God' not to include shortage of water, destruction of upkeep on dams or other construction of the commission by flood, scouring, faulty construction or maintenance."

Mayor McLellan was of the opinion that the premier should be inserted as to damages.

The premier thought that if this was included it should be reciprocal.

Mr. Levin observed that the contract already contained such a clause.

Commissioner Thornton thought that the former draft was a poor one on account of the fact that under it the city could receive no damages for interruption, but Dr. Baxter explained that it would be useless to insert such a clause as the commission really would have no money to pay a claim for damages.

An Objection.

The mayor objected to the section in its present form, as it guaranteed no "continuity of service."

The premier asked where the commission would receive recompense should there be a hold-up on account of faulty construction by the city.

Dr. Baxter thought that this contingency was covered so far as the commission was concerned by the words "beyond their control."

The question "The commission owned no property—it was simply an administrator for the government. According to the act the monies received to the provincial secretary-treasurer. It would pay damages, and consequently it would be useless to insert a clause assuring the council of an absolute guarantee."

Commissioner Bullock asked if, aside from these considerations, the commission could guarantee continuous service without a standby.

Mr. Kribs replied that it could, except for momentary interruptions liable for either steam or hydro plants. He said he did not agree with either the Kribs or Ross reports in this regard. He referred to the fact that the Montreal steam standby had been used only once in nine years.

The section was agreed to tentatively.

Common Use of Poles.

Section 9, covering the joint use by the commission and the city of poles, conduits, towers and other such equipment where advisable was passed.

Discussing section 10, which provided for the mutual right of both parties to inspect each other's books and accounts, Dr. Baxter said that he had no objection to this section. He explained that this section was apparently inserted so that the city could assure itself that it was getting the energy at actual cost and so that the commission could make sure that the city was not selling the current at an unusual profit.

Commissioner Thornton asked about Moncton's contract. He said that the premier would not be distributed by the tramways company without them making a profit.

The premier said that this did not necessarily mean that the city would profit by the transaction.

Dr. Baxter pointed out that the section was for the furnishing of information only and not for any action on the part of either party. It was therefore allowed to stand.

To Serve Notices.

Section 11 dealt with the serving of notices by means of registered letter.

Dr. Baxter said that he had no objection to the wording of the section, but thought that, when the offices of the two parties were located in the city, it would be better not to trust to the mails, and suggested that the wording be changed to make delivery at the office of the commission or of the city common clerk suffice as serving of any notices.

The section was allowed to stand as suggested by the city solicitor.

The Matter of Sale.

The main bone of contention during the whole meeting was section 12, by which the city would be restricted to selling the energy only to bona fide users, and promised not to sell, dispose of or deliver the current to any person, firm or corporation for resale or distribution at a profit.

Dr. Baxter said that he had no objection to the language of the section, but the subject matter was a question of policy and should be decided between the council and the commission.

To Commissioner Bullock's query, he said that the New Brunswick Power Company had no exclusive franchise for any of its services except the street railway—that anybody could compete with the company in any other branch of their undertaking.

Commissioner Thornton said that he took it that under this section the city had no alternative but to go ahead and build a distribution system of its own.

Fear of Injunction.

If the city went into the distribution business, said Commissioner Frink,

independent of the New Brunswick Power Company the company might attempt by injunction or otherwise to prevent the city from entering into competition with them. In that case there would be a delay in the city getting on with distribution and meantime it would be compelled to pay for the current contracted for. The possibility he thought was remote but in the event of its occurring, he thought that the city might like to be in a position to resell at least a part of the energy which it could not distribute. The matter, he thought, might be settled by a plebiscite.

Dr. Baxter said he could not see what right the power company would have to take out an injunction. Before it could do so, in any case, it would have to undertake to assume whatever damages resulted to the city by means of its action.

Premier Foster thought that the whole section was contingent upon the policy adopted by the council, and that there was not much use in discussing it with the commission.

"Yes," answered the mayor, "but why should this city be discriminated against in favor of Moncton?"

Mr. Kribs answered that the Moncton people had notified the commission that they intended to buy the tramways company distribution system after the completion of the distribution contract which would extend over three years.

Commissioner Frink said that there was a possibility that the city would have more power available than it could distribute for some time and asked if the city could not resell some of it.

Mr. Kribs said that this was a matter of contingency. In some towns in Ontario where the two corporations were in competition it was not unusual for one to help the other in cases of emergency so that the public would be better served.

The mayor asked why the citizens should be "penalized" by the acts of a government before they have a chance to accept them.

People Protected.

Mr. Kribs said that he disagreed with the mayor on this point. The section was inserted to prevent the people from being penalized.

Commissioner Frink crystallized the whole intent of the section by remarking, "I take it that the policy of the government in inserting this section was that its product should not be sold to someone to peddle out at a profit."

"Exactly," commented the premier. The section was allowed to stand over for further consideration.

Duration of Contract.

Section 13 referred to the duration of the contract. Dr. Smith said that the Moncton contract was for fifteen years and the commission was willing to give St. John the same length of contract. He preferred thirty years.

Mr. Kribs said that if the commission desired it, it could amortize some of its bonds in fifteen years. Some of them were for ten years, some for fifteen and some for twenty.

Commissioner Thornton said he understood that the commission proposed, in the event of selling to places just outside the city, to credit the city with the amount of energy thus supplied.

He thought that something should be inserted in the contract to this effect. Dr. Baxter said that according to the act the city could arrange with other municipalities to supply them with energy, but in the case of Lancaster and East St. John, as these localities were not incorporated, the city could not deal with them.

Electric Light Districts.

The premier said that it was proposed to promote legislation creating electric light districts with which the city could arrange for supplying. Under the act the city was confined to supply within the city limits.

Dr. Baxter said that he was under the impression that there was an idea prevailing in Lancaster that they would prefer to control their own distribution. Personally he thought that the overhead could be reduced by their receiving their supply through the city.

Mayor McLellan said he understood that the power supplied outside the city would be credited to the city's account.

"If it came through the city's sub station," observed the premier.

Dr. Frink said he understood that East St. John and Lancaster would be supplied through an independent system.

City Would Get Credit.

Mr. Kribs explained that the commission did not desire to have a sub station every mile or so along its main transmission line. He said that the city sub station would be the natural distribution point for many loads not within the city limits, and any energy passing through that station would certainly be credited to the city's account.

Why should East St. John and Lancaster want separate sub-stations when they know that they are going to get the current at cost?" asked Premier Foster.

The premier asked how Rothery would stand if the city acquired the assets of the New Brunswick Power Company. If this should come to pass, he thought that the city should be protected in regard to its investment in that locality.

Dr. Baxter said that Kings county would hardly go to the expense of erecting another sub station when it could get its supply through St. John. Mr. Kribs asked if the city did buy out the power company if it would have a legal right to hold sections outside the city limits. He said that in Ontario they would not.

Dr. Baxter said there was legislation in existence now that covered that.

The mayor observed that there was not much fear that the people of Rothery would want to go into competition with the city.

Premier Foster said, regarding section 12, which referred to the handing over of the energy to someone else by the city, that it touched upon the policy of the provincial government and before making any definite decision he would like to talk the matter over with his colleagues.

Mr. Kribs said that the commission had set a peak load on the plant and could get about twenty per cent. overload. He said that they would not split hairs and felt that the two parties could get together on the question.

It was decided to postpone further meetings until it was seen what came out of the mayor's proposal regarding arbitration.

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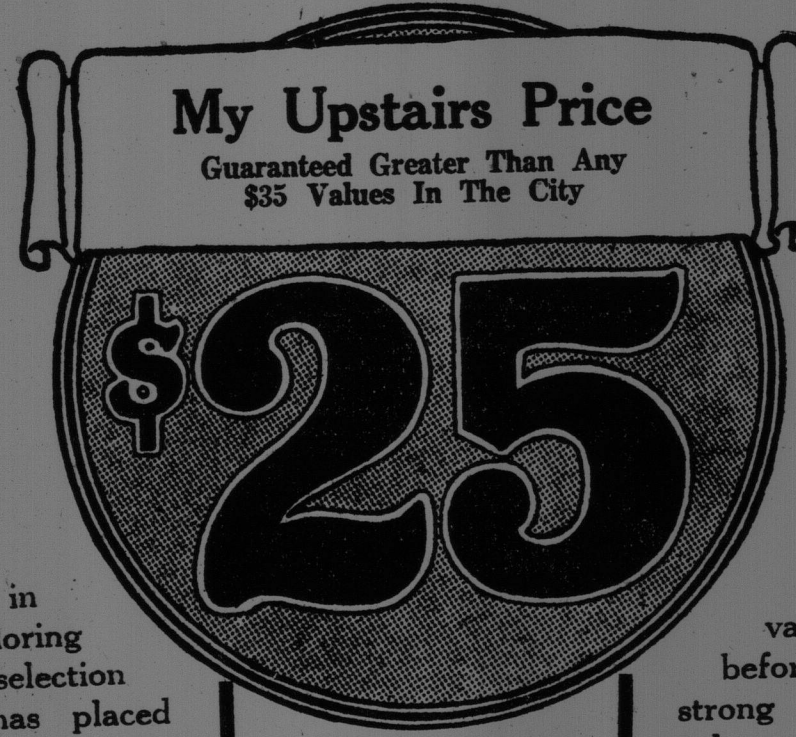
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