

ACT 134

An Act Relating to Public Utilities.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. (a) Subject to Act 1, Second Special Session of the First State Legislature 1959, the provisions of chapter 104 of the Revised Laws of Hawaii 1955, as amended by this Act, and all other laws concerning the functions, powers and duties of the public utilities commission are continued as laws of the State.

(b) Insofar as the Act of March 28, 1916 (39 Stat. 38, c. 53) constitutes a territorial law enacted by Congress of the United States which might terminate on August 21, 1961, pursuant to the proviso of section 15 of the Act of March 28, 1959 (73 Stat. 11), the provisions of this Act shall be deemed to amend the Act of March 28, 1916.

(c) The public utilities commission is hereby authorized and directed to assume all of the functions, powers and duties pertaining to it under the constitution and laws of the State in respect to its increased jurisdiction.

SECTION 2. The following franchises which were granted by the Territory of Hawaii with the approval of the Congress of the United States and are now in existence, which may expire on August 21, 1961 :

Electric Light and Power, Hana (Hana Ice and Electric)
 Electric Light and Power, Hana (A. F. Tavares)
 Electric Light and Power, Honolulu
 Hilo Electric Light Co., Ltd.
 Electric Light and Power, Hamakua
 Electric Light and Power, North Kona & South Kona
 Electric Light and Power, Districts of Waimea and Koloa, Island and
 County of Kauai
 Electric Light and Power, Waimea and Kekaha
 Electric Light and Power, Hanalei
 Electric Light and Power, Lihue and Koloa
 Electric Light and Power, District of Kawaihau
 Electric Light and Power, Lahaina
 Electric Light and Power, Wailuku
 Gas and Electric Light and Power, Wailuku and Makawao
 Electric Light and Power, Molokai
 Gas, Honolulu
 Gas, South Hilo
 Honolulu Rapid Transit and Land Company

shall continue in effect ; provided, that each and every such franchise shall be amended as follows :

(a) That all references to the Territory of Hawaii are hereby amended to read State of Hawaii ;

(b) That the legislature of the State of Hawaii, and it alone, may at any time hereafter alter, amend or repeal any such franchise, and the approval of congress shall not be required for alteration, amendment or repeal ;

(c) That no such franchise shall grant or be construed to grant any exclusive right or privilege, and no franchise shall limit or be construed to limit the power of the legislature of the State of Hawaii to grant additional franchises for the operation of competitive or other public utilities ;

(d) That no such franchise shall limit or be construed to limit the power of the public utilities commission of the State of Hawaii or any other officer or agency of the State of Hawaii under chapter 104 of the Revised Laws of Hawaii 1955, or any amendments thereto, or under any laws of the State of Hawaii.

SECTION 3. All rights granted in each and every franchise aforementioned to acquire property shall be further amended to read as follows :

"The said company shall have the right to acquire, hold or take over, either by purchase or lease, property, both real, personal or mixed, as may be necessary for the proper conduct of its business, but said company shall not have power or right to acquire the franchise or property of any other public utility company, except with the approval of the public utilities commission."

SECTION 4. All rights granted in each and every franchise aforementioned to install equipment in, on, above, along, or under public rights of way shall be further amended to read as follows:

"Effective July 1, 1962 the company shall have the right to place, construct, erect, or otherwise build poles, wires, pipes, and other appurtenances in, on, above, along, or under public rights of way which right shall be exercised only upon the approval of the public utilities commission based upon its written findings that the proposed installation meets standards prescribed by the commission governing such installations; provided that the approval of the public utilities commission shall not be required with respect to such installations in federal aid highway rights of way."

SECTION 5. The franchise held by the Hawaiian Electric Company, Limited, shall be further amended by changing the language of section 10 thereof to read as follows:

"Section 10. Annual payments to City and County of Honolulu. The said company shall within one month after the expiration of each calendar year, file with the public utilities commission a statement showing the gross receipts from the sale of electric light and power furnished by the company on the Island of Oahu and shall at the same time pay to the treasurer of the City and County of Honolulu two and one-half per centum of the gross receipts of the company from all electric light or power furnished to consumers on the Island of Oahu, during the preceding calendar year."

SECTION 6. Any corporation covered by this Act and having the power of eminent domain under section 8-4, Revised Laws of Hawaii 1955, and any corporation having the power of eminent domain under section 8-38, Revised Laws of Hawaii 1955, may continue to exercise such power, provided, that prior to the exercise of the power,

(a) the corporation submits to the public utilities commission its intention to exercise the power, with a description of the property to be condemned;

(b) the public utilities commission finds that the proposed condemnation is in the public interest, that the proposed condemnation is necessary, and that the corporation will use the property, for its operations as a public utility.

SECTION 7. Nothing in this Act shall be construed as granting to any of the public utilities a franchise in any of its certificated or regulated areas. Any person who prior to the enactment of this Act was certificated or regulated by the public utilities commission shall continue to be so certificated or regulated in all respects as though this Act had not been passed.

SECTION 8. Nothing in this Act shall be construed as an admission on the part of the State that the holder of the franchise is presently engaged in the type of business provided for in said franchise.

SECTION 9. This Act shall take effect upon its approval.

(Approved July 5, 1961.) S.B. 647.