

ACT 130

An Act to Amend a Franchise Held by Hilo Electric Light Company, Limited and to Repeal Certain Franchises for Electric Service on the Island of Hawaii.

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

SECTION 1. S. L. 1921 Act 101, ratified, confirmed and approved by Act of Congress (42 Sts. at L. 185, c. 81) approved August 24, 1921; as enacted as law by S. L. 1935 Act 1; as amended by S. L. 1941 Act 112, approved by Act of Congress (55 Sts. at L. 777, c. 488) approved November 21, 1941; as amended by S. L. 1945 Act 32 and S. L. 1949 Act 251, ratified and confirmed by Act of Congress (63 Sts. at L. 929, c. 756) approved October 26, 1949; as amended by S. L. 1951 Act 66 as amended by S. L. 1961 Act 134 is hereby amended to read as follows:

“FRANCHISE

Section 1. **Definitions.** The following words, wherever they are used or appear in this franchise, shall be construed to mean and be held to have the force and effect as follows:

(a) The ‘corporation’ shall mean, include and represent Hilo Electric Light Company, Limited as a body corporate under that or such other name as said company may hereafter adopt and its successors and assigns.

(b) The ‘public utilities commission’ shall mean and include any

officer, board or commission authorized or empowered to regulate public utilities under Revised Laws of Hawaii 1955, chapter 104, or any amendments thereto.

Section 2. Franchise. The corporation is hereby granted the right, authority and privilege to manufacture, sell, furnish and supply electric light, electric current or electric power on the island of Hawaii, State of Hawaii, for lighting the streets, roads, public and private buildings and property, or for motive power, or for any other purpose which it may deem advisable, and from time to time for the purposes above mentioned to construct, maintain, and operate suitable poles, lines, wires, cables, lamps, lamp posts, conductors, conduits and such other appliances and appurtenances as may from time to time be necessary or convenient for the transmission, distribution or supply of electricity to consumers thereof, under, along, upon and over the streets, sidewalks, roads, squares, bridges, alleys and lanes on said island, and to connect the same wires, lines and conductors with any manufactory, private or public buildings, lamps, lamp posts or other structure or object and the place or source of supply.

Section 3. Rules and regulations. The board of supervisors of the county of Hawaii is hereby authorized to make and from time to time to change, amend or add to reasonable rules regulating within the county of Hawaii the placing of poles and wires, the insulation of wires and apparatus carrying electric current, the excavation of conduits, and the maintenance in good repair of all poles, wires and apparatus, and generally concerning the manufacture and supply of electricity which may be necessary or proper for the public safety and welfare. If at any time the corporation, after reasonable notice given to it in writing, shall fail to observe or execute the rules and regulations hereinabove provided for relative to the placing of poles and wires, the insulation of wires and apparatus carrying electric current, and the repair of all poles and appliances, the board of supervisors of the county of Hawaii, after giving the corporation reasonable notice thereof in writing of its intention so to do, may proceed to enforce such rules regulating the placing of poles and wires, the insulation of wires and apparatus carrying electric current, the excavation of conduits, and the maintenance in good repair of all poles, wires and apparatus and make such repairs as may be necessary to enforce such rules, and the actual cost thereof may be recovered from the corporation by the county of Hawaii.

Section 4. Poles not to interfere with streets. All poles, lines, wires, cables, lamps, lamp posts, conductors, conduits and other apparatus, constructed, maintained or operated under, along, upon or over the streets, sidewalks, roads, squares, bridges, alleys and lanes on said island shall be so constructed and maintained and operated by the corporation as not to interfere unnecessarily with the use of such streets, sidewalks, roads, squares, bridges, alleys and lanes by the public.

Section 5. Plant subject to inspection. The entire plant, corporation books and accounts of the corporation shall at all times be subject to the inspection of the public utilities commission and the treasurer of the county of Hawaii.

Section 6. Meters and rates. The corporation shall have the right to maintain, operate and use electric meters or other means of measuring

electric light, power or current supply from time to time and to locate the same at such places as may be deemed necessary for determining the current supplied or to be supplied by the corporation. The corporation shall have the right to charge, receive and collect from all consumers of electricity such reasonable rates as may from time to time be fixed and determined by the public utilities commission.

Section 7. Extensions of lines and charges for making connections. The public utilities commission is hereby granted the power to order said corporation to make extensions of its service lines whenever it shall be made to appear that said extension is a public necessity and that the total plant of said corporation, including such extension or extensions, can be made to earn a reasonable profit on the cost and maintenance of same.

Section 8. Charges for making connections. The corporation shall have the right, subject to the approval of the public utilities commission, to charge consumers or applicants for the use of electricity for the cost and expense of making connections between the nearest line of supply and the premises where the electricity is to be used, such cost and expense to include the price of all wires, poles, insulators and other materials and labor necessary to be used in making such connections, the reasonableness of said charges upon the application of any party in interest to be subject to the approval of the public utilities commission.

Section 9. Rights to acquire property, limits to. The corporation 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 corporation 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 10. Power to borrow money and bonds. The corporation whenever from time to time it shall be deemed expedient in the furtherance of the objects of the corporation shall have the power to borrow money and secure the payment thereof, with interest agreed upon, by mortgage of all or any part of its property, and this franchise; or, if it be deemed advisable, bonds may be issued, secured by deed of trust of such property and this franchise as aforesaid, not to exceed sixty per centum of the actual value thereof, together with all future acquired property and franchises, as well as the income and receipts of the property from whatever sources derived, and in such form and under such terms as said corporation may deem advisable; provided, that nothing in this section contained shall operate to prevent said corporation from obtaining the usual business credits or making promissory notes without security. No director or officer of the corporation, or any assignee or successor of the same, shall become interested, directly or indirectly, in any contract made by the corporation, its assignees or successors, in the construction of any part of the works, unless such contract is first approved by the public utilities commission.

Section 11. Franchise not exclusive. It is hereby expressly provided that nothing herein contained shall be construed to grant to the corporation an exclusive right to furnish, sell or supply electric current for light and power.

Section 12. Forfeiture of franchise. If said corporation, its representatives, successors and assigns, shall fail or refuse to do or perform or comply with any of the provisions of this franchise or the laws of the State of Hawaii, and continue to refuse or fail to perform or comply therewith after reasonable notice given by the public utilities commission to comply therewith, said public utilities commission may, with the consent of the governor and of the attorney general, cause proceedings to be instituted before any appropriate tribunal to have the franchise hereby granted and all rights and privileges accruing hereunder forfeited and declared null and void.

Section 13. Rules to enforce rates. The corporation shall have the right to discontinue or cut off the supply of electricity to any consumer who shall refuse to pay the amount due for electricity supplied by said corporation within such reasonable time as said corporation may, by general rules, fix for the payment of amounts due and such discontinuance of service or supply of electricity shall not be a bar to or prejudice the rights of the corporation in any remedy or remedies now or which may hereafter be authorized by law for the recovery and collection of the amount due.

Section 14. Annual statement, payment to government. The corporation shall, within one month after the expiration of each calendar year, file with the treasurer of the county of Hawaii, a detailed statement showing all of its receipts and expenditures during the preceding calendar year, and shall, at the time, pay to the treasurer of the said county of Hawaii, for and on behalf of said county, two and one-half per centum of the gross receipts of the corporation from all electric current or power furnished to consumers on the island of Hawaii during the preceding year; and all its books, papers, records and accounts shall at all reasonable times be open to inspection by the treasurer of said county, and his respective agents appointed for such purpose.

Section 15. Regulation. The corporation shall have all the powers and be subject to all of the liabilities provided by law for corporations and shall be subject in all respects to the provisions of Revised Laws of Hawaii 1955 chapter 104, or amendments thereto, and to all other laws relating to public utilities and all laws as may be applicable from time to time to electric light and power companies or the persons or corporations operating them; provided, however, that from every ruling, decision and/or order an appeal shall lie as provided by law.

Section 16. Amendment and repeal of franchise. This franchise may at any time be amended or repealed by the legislature of the State of Hawaii."

SECTION 2. The following Acts are hereby repealed:

- (1) S. L. 1895 Act 5, as enacted as law by S. L. 1935 Act 1.
- (2) S. L. 1917 Act 134, amended by S. L. 1919 Act 127 and S. L. 1921 Act 44, ratified, approved and confirmed by Act of Congress (42 Sts. at L. 185, c. 81) approved August 24, 1921.
- (3) S. L. 1919 Act 214.
- (4) S. L. 1919 Act 216, as enacted as law by S. L. 1935 Act 1.
- (5) S. L. 1921 Act 102.
- (6) S. L. 1923 Act 261.

- (7) S. L. 1929 Act 55, approved by Act of Congress (46 Sts. at L. 158, c. 134) approved April 12, 1930; as enacted as law by S. L. 1935 Act 1.
- (8) S. L. 1931 Act 256, approved by Act of Congress (47 Sts. at L. 61, c. 71) approved March 5, 1932; as enacted as law by S. L. 1935 Act 1.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 3, 1963.) **S.B. 1096.**
