

No. 74

2nd Session, 13th Legislature, Alberta
4 Elizabeth II, 1956

BILL 74

A Bill to amend The Water, Gas, Electric and Telephone
Companies Act

HON. MR. TAYLOR

Explanatory Note

This Bill amends *The Water, Gas, Electric and Telephone Companies Act* to remove therefrom the present provisions authorizing expropriation for a right of way for companies coming under this Act where such rights of way are required outside urban areas.

By way of substitution, provisions similar to the provisions proposed at this session for The Water Resources Act are being placed in this Act.

The provisions will authorize a company under this Act to apply to the Minister of Highways for approval of its proposed right of way.

Upon receiving that approval, the company will either obtain the right of way by contract or by expropriation.

If by way of expropriation, the company will be required to apply to the Board of Public Utility Commissioners who will award compensation and make the necessary orders as to interests affected, damage involved and lands to be affected.

The proceedings of the Board and the enforcement of the orders will be governed by The Public Utilities Act.

Part II will relate the amendments to the revision and consolidation.

BILL

No. 74 of 1956

An Act to amend The Water, Gas, Electric and Telephone Companies Act

(Assented to _____, 1956)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

PART I

1. *The Water, Gas, Electric and Telephone Companies Act*, being chapter 260 of the Revised Statutes of Alberta, 1942, is hereby amended.

2. Sections 26 to 29 are struck out and the following are substituted:

"26. (1) Where a company desires or proposes to acquire any lands or any interest in lands situate outside the limits of a city, town or village for a right of way for any of its mains, pipes, wire, conductors, poles or other devices that are required for conveying, transmitting, supplying or distributing its gas, water or electricity or its telephone or sewage services, which are hereinafter referred to as the "works", the company shall first make application to the Minister for approval of the intended route of the right of way.

"(2) The company shall forward with its application for approval of the intended route of the right of way such plans and other information as the Minister may from time to time prescribe.

"(3) Upon considering the application the Minister shall have regard to all the circumstances that appear to him to be relevant and in particular, but not so as to limit the generality of the foregoing, shall have regard to

"(a) the recommendations, if any, of the Director of Surveys or The Alberta Power Commission, as the case may require,

"(b) the objection of an interested party,

"(c) any public interest that, in the opinion of the Minister, might be affected by the granting or refusal of his approval, and

"(d) the needs and general good of the residents of the Province.

"(4) The decision of the Minister as to whether a person is or is not an interested party within the meaning of clause (b) of subsection (3) is final.

"27. The Minister may grant a certificate of his approval to the intended route of the right of way, and extent thereof, or may refuse his approval, or the Minister may approve the intended route subject to such changes in the plan, details or extent thereof as he deems advisable in the public interest, and the decision of the Minister thereon is final and not subject to review in any court or other tribunal.

"28. (1) Upon receiving a certificate of approval from the Minister, the company may take and expropriate for the purposes of a right of way so much of the lands or interest therein as may be approved by the Minister for the route of the right of way.

"(2) The manner in which and the terms upon which a company may exercise the right to take and expropriate lands or any interest in lands,

"(a) shall be in accordance with the terms of any agreement effected between the company and the owner of any such lands or interest therein, and

"(b) in the absence of any such agreement shall be as set forth in sections 29 to 32.

"29. (1) The company shall apply to the Board of Public Utility Commissioners for an order setting forth the terms upon which the company may take and expropriate lands, or any interests therein, situate in the approved route of the right of way.

"(2) Upon receipt of the application the Board shall fix the date for the hearing of the application, notify the applicant of the date fixed, and require the applicant to give such notice by personal service, advertisement or in such other manner to such persons as the Board may direct.

"(3) The Board shall proceed to hear and determine the application and, upon conclusion of the hearing or as soon as conveniently may be, the Board shall dispose of the application and may make an order declaring

"(a) the lands, or interest in lands, required by the company for the purpose of the approved route of the right of way and, without derogating from the generality of the foregoing, the right of ingress and egress to and from the right of way,

"(b) the exact location of such lands,

"(c) the nature of the interest acquired by the company in such lands,

"(d) the name and address of any person having any right, title or interest in the lands,

"(e) the amount of money payable by the company to any person for the expropriation of the lands or any interest therein,

"(f) the amount of money payable to any person for incidental damages caused by or arising out of the construction of any works, and

"(g) the costs of and incidental to the application and by whom payable.

“30. (1) At any time during which an application is pending before the Board of Public Utility Commissioners under section 29, if an application is made by the company, either *ex parte* or upon such notice as the Board in its discretion may direct, the Board, upon being satisfied of the necessity for the immediate exercise of all or any of the rights that are the subject matter of the application, may, upon the applicant making a deposit with the Board of such amount as the Board estimates to be sufficient to secure the payment by the company of such sums as might become payable ultimately to such persons as might have any right, title or interest in any such lands by reason of or on account of the exercise of all or any of the rights of the company, order that the applicant company be at liberty forthwith to exercise, in such manner and subject to such conditions as the Board deems fit and proper in the circumstances, such rights as are specified in the order.

“(2) The amount deposited by the applicant shall stand as charged with and be available for the payment of all such sums as the Board may order to be paid in respect of all or any of the rights that are the subject matter of the application, together with the costs of and incidental to the application.

“(3) In determining the amount of a deposit under this section, the Board shall be deemed not to limit or determine the amount that it may ultimately order to be paid in respect of all or any of the rights that are the subject matter of the application.

“31. (1) Upon the making of any order of the Board of Public Utility Commissioners pursuant to sections 29 and 30 and upon the Board certifying in writing that the company has paid all the sums of money payable pursuant to the order or, in the alternative, that the company has deposited with the Board a sum sufficient to pay all sums payable under the order, the company may exercise every right to take and expropriate the lands, or interest therein, described in the order and conferred upon it by this Act.

“(2) Upon the making of an order of the Board pursuant to section 29 and upon the Board certifying in writing that the company has paid all the sums of money payable pursuant to the order, the company may file in the land titles office of the land registration district within which the lands are situate the order of the Board, including any plan of survey of the lands referred to in such order and upon such filing in the land titles office the lands or interest therein vest in the company.

“32. The provisions of Part I of *The Public Utilities Act* relating to proceedings of the Board of Public Utility Commissioners and the enforcement of its orders apply to proceedings and orders of the Board under sections 29 to 31 herein in so far as the same do not conflict with the provisions of any of such sections.

“33. In sections 26 to 28 “Minister” means Minister of Highways.”.

PART II

3. *The Water, Gas, Electric and Telephone Companies Act*, being chapter 361 of the Revised Statutes of Alberta, 1955, is hereby amended.

4. Sections 30 to 33 are struck out and the following are substituted:

"30. (1) Where a company desires or proposes to acquire any lands or any interest in lands situate outside the limits of a city, town or village for a right of way for any of its mains, pipes, wire, conductors, poles or other devices that are required for conveying, transmitting, supplying or distributing its gas, water or electricity or its telephone or sewage services, which are hereinafter referred to as the "works", the company shall first make application to the Minister for approval of the intended route of the right of way.

"(2) The company shall forward with its application for approval of the intended route of the right of way such plans and other information as the Minister may from time to time prescribe.

"(3) Upon considering the application the Minister shall have regard to all the circumstances that appear to him to be relevant and in particular, but not so as to limit the generality of the foregoing, shall have regard to

"(a) the recommendations, if any, of the Director of Surveys or The Alberta Power Commission, as the case may require,

"(b) the objection of an interested party,

"(c) any public interest that, in the opinion of the Minister, might be affected by the granting or refusal of his approval, and

"(d) the needs and general good of the residents of the Province.

"(4) The decision of the Minister as to whether a person is or is not an interested party within the meaning of clause (b) of subsection (3) is final.

"31. The Minister may grant a certificate of his approval to the intended route of the right of way, and extent thereof, or may refuse his approval, or the Minister may approve the intended route subject to such changes in the plan, details or extent thereof as he deems advisable in the public interest, and the decision of the Minister thereon is final and not subject to review in any court or other tribunal.

"32. (1) Upon receiving a certificate of approval from the Minister, the company may take and expropriate for the purposes of a right of way so much of the lands or interest therein as may be approved by the Minister for the route of the right of way.

"(2) The manner in which and the terms upon which a company may exercise the right to take and expropriate lands or any interest in lands,

- “(a) shall be in accordance with the terms of any agreement effected between the company and the owner of any such lands or interest therein, and
- “(b) in the absence of any such agreement shall be as set forth in sections 33 to 36.

“33. (1) The company shall apply to the Board of Public Utility Commissioners for an order setting forth the terms upon which the company may take and expropriate lands, or any interest therein, situate in the approved route of the right of way.

“(2) Upon receipt of the application the Board shall fix the date for the hearing of the application, notify the applicant of the date fixed, and require the applicant to give such notice by personal service, advertisement or in such other manner to such persons as the Board may direct.

“(3) The Board shall proceed to hear and determine the application and, upon conclusion of the hearing or as soon as conveniently may be, the Board shall dispose of the application and may make an order declaring

- “(a) the lands, or interest in lands, required by the company for the purpose of the approved route of the right of way and, without derogating from the generality of the foregoing, the right of ingress and egress to and from the right of way,
- “(b) the exact location of such lands,
- “(c) the nature of the interest acquired by the company in such lands,
- “(d) the name and address of any person having any right, title or interest in the lands,
- “(e) the amount of money payable by the company to any person for the expropriation of the lands or any interest therein,
- “(f) the amount of money payable to any person for incidental damages caused by or arising out of the construction of any works, and
- “(g) the costs of and incidental to the application and by whom payable.

“34. (1) At any time during which an application is pending before the Board of Public Utility Commissioners under section 33, if an application is made by the company, either *ex parte* or upon such notice as the Board in its discretion may direct, the Board, upon being satisfied of the necessity for the immediate exercise of all or any of the rights that are the subject matter of the application, may, upon the applicant making a deposit with the Board of such amount as the Board estimates to be sufficient to secure the payment by the company of such sums as might become payable ultimately to such persons as might have any right, title or interest in any such lands by reason of or on account of the exercise of all or any of the rights of the company, order that the applicant company be at liberty forthwith to exercise,

in such manner and subject to such conditions as the Board deems fit and proper in the circumstances, such rights as are specified in the order.

“(2) The amount deposited by the applicant shall stand as charged with and be available for the payment of all such sums as the Board may order to be paid in respect of all or any of the rights that are the subject matter of the application, together with the costs of and incidental to the application.

“(3) In determining the amount of a deposit under this section, the Board shall be deemed not to limit or determine the amount that it may ultimately order to be paid in respect of all or any of the rights that are the subject matter of the application.

“35. (1) Upon the making of any order of the Board of Public Utility Commissioners pursuant to sections 33 and 34 and upon the Board certifying in writing that the company has paid all the sums of money payable pursuant to the order or, in the alternative, that the company has deposited with the Board a sum sufficient to pay all sums payable under the order, the company may exercise every right to take and expropriate the lands, or interest therein, described in the order and conferred upon it by this Act.

“(2) Upon the making of an order of the Board pursuant to section 33 and upon the Board certifying in writing that the company has paid all the sums of money payable pursuant to the order, the company may file in the land titles office of the land registration district within which the lands are situate the order of the Board, including any plan of survey of the lands referred to in such order and upon such filing in the land titles office the lands or interest therein vest in the company.

“36. The provisions of Part I of the *Public Utilities Act* relating to proceedings of the Board of Public Utility Commissioners and the enforcement of its orders apply to proceedings and orders of the Board under sections 33 to 35 herein in so far as the same do not conflict with the provisions of any of such sections.

“37. In sections 30 to 32 “Minister” means Minister of Highways.”.

5. Part I and this section come into force on the day this Act is assented to, and Part II, except this section, comes into force and Part I is repealed on the day the Revised Statutes of Alberta, 1955, come into force.

SECOND SESSION
THIRTEENTH LEGISLATURE
4 ELIZABETH II
1956

BILL

An Act to amend The Water, Gas,
Electric and Telephone Companies
Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. TAYLOR
