

REPRINTED BILL

BILL

No. 35 of 1926.

An Act to amend the Acts and Ordinances relating to the City of Red Deer.

(Assented to 1926.)

WHEREAS, the City of Red Deer has prayed for certain amendments to chapter 42 of the Ordinances of the North West Territories, 1901, and entitled, "*An Ordinance to incorporate the Town of Red Deer*" as amended by chapter 39 of the Statutes of Alberta, 1906;

And it is expedient to grant the prayer of the said petition;

And whereas the Western General Electric Company, Limited, has certain powers and privileges relating to the supplying of electric light and water to the City of Red Deer under certain agreements made between the Western Telephone Company, Limited, the Town of Red Deer and the Western General Electric Company, Limited, which said agreements were ratified and confirmed and declared to be binding upon the parties thereto by section 104 of chapter 39 of the Statutes of Alberta, 1906, entitled "*An Act to amend Chapter 42 of the Ordinances of the North West Territories, 1901, entitled 'An Ordinance to incorporate the Town of Red Deer,'*" to which statute the said agreements are a schedule;

And whereas the City of Red Deer made an application to the Legislature of the Province of Alberta, at the session held in the year 1924, to have certain amendments made to said chapter 42 of the Ordinances of the North West Territories, 1901, whereby certain changes were proposed to be made in the rights, privileges and franchises held by the Western General Electric Company, Limited, in the City of Red Deer;

And whereas the said Bill was referred to the Municipal Law Committee, which recommended to the House that the application of the City of Red Deer be not proceeded with at that session, but that the Executive Council submit to the Board of Public Utility Commissioners an order authorizing the said Board to investigate all agreements between the City of Red Deer and the Western General Electric Company, Limited, and such other matters as the Executive Council should direct and that such Board should present a report at the commencement of the next session of the House;

And whereas by order in council dated the 26th day of November, 1924, the said Board was directed to make the said enquiry and has made enquiry and has reported the result of such enquiry to the House;

And whereas the said City of Red Deer renewed its application to the Legislature of the Province of Alberta at the session held in the year 1925 to have certain amendments made to said chapter 42 of the said Ordinances of the North West Territories;

And whereas under the terms of the agreement existing between the said City of Red Deer and the said Western General Electric Company, Limited, the said City has the right and privilege, upon giving one year's notice in writing immediately next preceding the expiration of the said agreement, on the 1st day of June, 1928, to acquire by purchase all the plant, machinery, equipment, franchise and assets of the Company at the then actual cash value;

And whereas the said Western General Electric Company, Limited, agreed to waive the said one year's notice and to terminate the said agreements before the said 1st day of June, 1928, if satisfactory terms could be arranged;

And whereas the Municipal Law Committee at the session held in the year 1925 resolved that the application of the City of Red Deer be not proceeded with at this session of the Legislature, but that the Executive Council be requested to direct that an order or commission should issue to the Board of Public Utility Commissioners—

- (a) To inquire into the terms and conditions of the said contracts and to act as an intermediary between the said City of Red Deer and the said Company in an endeavour to get said parties to come to a settlement of the matters in dispute between them and to agree upon what assets of said Company are to be acquired by the said City and the price to be paid therefor, or in an endeavor to get said parties to agree upon the terms of a submission to the Board of Public Utility Commissioners for the purpose of ascertaining the price to be paid to the said Company by the said City and in the event of the said parties not coming to either agreement as aforesaid, or any agreement, to report back to this Committee at its first meeting during the session of the Legislative Assembly to be held in the year 1926 the points in which the parties agree and disagree respectively;
- (b) In the event of the parties not reaching any agreement as aforesaid, to ascertain and determine what property of the said Company is properly included in the description contained in the option to purchase held by the City from the Company, namely, "the plant, machinery, equipment and assets of the Company," and the actual cash value of the same and of the franchise respectively, and to report the same to this Committee at its meeting hereinbefore mentioned;

And whereas the said Commission did issue and on the 6th day of May, A.D. 1925, the City of Red Deer and the Western General Electric Company, Limited, agreed to submit to the Board of Public Utility Commissioners the following questions for determination:

(1) The value to be fixed for the Company's plant; it being understood that the City shall take over the new boilers, at present in the Company's possession and not now connected up, at present day value, and that the Company be allowed for the boilers in present use, at their fair value for sale, when disconnected;

(2) The amount to be allowed, if any, for the Company's franchise and for displacement of capital in connection with the purchase of the plant by the City, and the amount to be allowed for going concern value; the term "plant," as used above, to mean plant, machinery, equipment and assets, excepting the retail store of the Company and the stock therein and the Company's book debts;

And whereas the Board of Public Utility Commissioners, in accordance with the submission agreed to by the City of Red Deer and Western General Electric Company, Limited, found the valuations of all the plant, machinery, equipment, franchise and assets of the said Company at the then actual cash value which the City of Red Deer agreed to purchase as follows:

Power plant	\$25,425.00
Distribution system	20,088.82
Franchise	200.00
Going concern value	5,142.89
New boilers	23,239.68
	\$74,096.39

In addition to the above the inventory of the equipment, stock and tools on hand and not included in the above valuations is to be fixed by an expert appointed by the Board of Public Utility Commissioners, and be valued at the time of delivery of possession to the City of Red Deer;

And whereas by certain agreements referred to in chapter 5 of the Statutes of Alberta, 1920, certain provisions were made for the joint use of poles;

And whereas the burgesses of the City of Red Deer have approved of By-law No. 618, being a by-law to raise \$85,000.00 for the purchase of the plant, machinery, equipment, franchise and assets of the Western General Electric Company, Limited, referred to in the award made by the Board of Public Utility Commissioners on the 17th day of September, 1925, and for the necessary alterations and improvements to the system;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. (a) That the Western General Electric Company, Limited, do sell to the City of Red Deer all the plant, machinery, equipment, franchise and assets of the said Company (excepting the retail store of the Company and the stock which pertains to the retail business and fixtures therein and the said Company's book debts), for the price or sum of \$74-096.39, and that in addition thereto the City pay to the said Company the value as fixed by an expert appointed by the Board of Public Utility Commissioners for the said equipment, stock and tools owned by the said Company at the date possession is delivered to the City and used or useful in connection with the power house and distribution system.
- (b) That all adjustments of taxes and insurance shall be made at the date possession is delivered to the City.
- (c) The City is to have access to all said Company's records of customers' accounts and contracts and matters incident thereto.
- (d) That the title for all property, both real and personal, purchased by the City shall be free and clear from all manner of liens, charges, mortgages, encumbrances, conditional sale agreements, debenture indebtedness and other liabilities whatsoever.
- (e) That possession be given to the City of the property purchased on the 1st day of April, 1926, and that interest be paid by the City at the rate of . . . per cent. per annum from the date of receiving possession until actual payment of the purchase money by the City into a trust account of the savings department of The Imperial Bank of Canada at their office in the said City, which money shall be turned over to the said Company, or to such other party or parties as may be entitled to the same, as soon as the said Company has complied with the provisions of this Act and title as aforesaid passes to the said City.
- (f) *The Bulk Sales Act* shall not apply to the sale herein.
- (g) The City receives all benefits to and assumes all liabilities of the said Western General Electric Company, Limited, after the 1st day of April, 1926, given to and assumed by said Company under the said agreements referred to in chapter 5 of the Statutes of Alberta, 1920. The said City shall also pay the Province of Alberta their proper charges for all poles to which it has surrendered its joint ownership to the said Company since the 1st day of June, 1925.

2. By-law No. 618 of the City of Red Deer, entitled "A by-law to provide for the raising of the sum of \$85,000.00 for the purpose of purchasing the plant, machinery, equipment, franchise and assets of the Western General Electric Company, Limited, referred to in the award made by the Board of Public Utility Commissioners, on the 17th day of September, 1925, and for the necessary alterations and improvements to the system," finally passed on the 24th day of November, 1925, is hereby validated and confirmed and declared to be legal, valid and binding upon the City of Red Deer and the ratepayers or burgesses thereof affected thereby and the same shall not be open to question in any court on any ground whatever, and the said City shall have authority to issue debentures, repayable as provided by the said by-law or in any manner provided by section 6 of chapter 30 of the Statutes of Alberta, 1908, or by debentures of equal amount of principal payable yearly from one to twenty years with coupons attached for the payment of interest yearly, and the debentures may bear any rate of interest not exceeding that mentioned in the said by-law.

3. Section 50 of chapter 39, of the Statutes of Alberta, 1906, is hereby amended by striking out the words "subject to the provisions of the last section of this Act" where they occur therein.

4. Chapter 39 of the Statutes of Alberta, 1906, is further amended by adding section 105 as follows:

"**105.** Notwithstanding anything to the contrary contained in this Act and the schedules thereto, the exclusive right and privilege and all other rights and privileges of the Western General Electric Company, Limited, of lighting the streets of the City of Red Deer as now or hereafter constituted and for the said purpose and for other purposes of the Company, including the distribution of light, power, telephone and other electrical services for municipal, industrial, commercial and other uses, to enter upon and use the said streets, lanes, thoroughfares, rights of way, bridges, public squares and other property under the jurisdiction and control of the City as now or hereafter constituted, shall cease, terminate and be null and void on the first day of April, one thousand nine hundred and twenty-six, and each and every contract and agreement existing prior to the passing of this Act between the City of Red Deer and the Western General Electric Company, Limited, and (*or*) the Western Telephone Company, Limited, shall cease, terminate and be null and void upon payment of the purchase price by the said City into The Imperial Bank of Canada as herein provided but without prejudice to either party for claims accrued under the said agreements."

5. This Act shall come into force on the day upon which it is assented to.

No. 35.

SIXTH SESSION
FIFTH LEGISLATURE
16 GEORGE V
1926

BILL

An Act to amend the Acts and Ordinances relating to the City of Red Deer.

Received and read the

First time.....

Second time.....

Third time.....

MR. G. W. SMITH.

EDMONTON:
W. D. McLEAN, ACTING KING'S PRINTER
A.D. 1926.