



CHAPTER 63.

An Act to Incorporate the West Kootenay Power
and Light Company, Limited.

[8th May, 1897.]

WHEREAS Oliver Durant, Patrick A. Largey, Charles Rudolph Preamble.

Hosmer, have by their petition applied to be incorporated as a Company, with power to supply power, light and heat by compressed air and electricity to the inhabitants, cities, towns, mines, smelters, railways and tramways in the District of West Kootenay, Province of British Columbia, within a radius of fifty miles from the City of Rossland (which area is hereinafter referred to as "the said area"), and to construct and maintain buildings, erections, or other works, and to enter upon and expropriate lands for a site for power-houses and other works, and to construct and maintain all works, buildings, pipes, poles, wires, appliances or conveniences necessary or proper for the generating and transmitting of compressed air and electricity as aforesaid; and also to construct, maintain and operate single or double lines of tramways and street railways in the cities and towns and throughout the said District of West Kootenay, and to erect poles, stretch wires, and maintain and operate telephone systems in the cities and towns and throughout the said District:

And whereas it is expedient to grant the prayer of such petition:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. Oliver Durant, Patrick A. Largey, Charles Rudolph Hosmer, Incorporation.
and such other person or persons, corporation or corporations, as shall in pursuance of this Act become shareholders in the Company, are hereby constituted a body corporate by the name of the "West Kootenay Power and Light Company, Limited," and hereinafter called "the Company."

- Capital stock. **2.** The capital stock of the Company shall be one million dollars, divided into ten thousand shares of one hundred dollars each.
- Increase of. **3.** The capital stock of the Company may be increased from time to time to any amount, if such increase be sanctioned by a majority vote, in person or by proxy, of the shareholders who hold at least two-thirds of the subscribed stock of the Company, at a meeting expressly called by the Directors for that purpose, by a notice stating the object of such meeting and the amount of the proposed increase. A copy of such notice shall be sent to each shareholder by mail, post paid, to the last known address of such shareholder, at least thirty days before such meeting, and published in the British Columbia Gazette for at least two weeks before the date of such meeting, and the proceedings of such meeting shall be entered in the minutes of the proceedings of the Company, and thereupon the capital stock may be increased to the amount sanctioned by such vote.
- New shares, preferential or otherwise. **4.** The new shares shall be issued upon such terms and conditions and with such rights and privileges as the Directors shall determine, and in particular such shares may be issued with a preferential or qualified right to dividends and in the distribution of assets of the Company, provided that the consent of the majority in value of the shareholders of the Company shall be first had and obtained.
- Head office. **5.** The head office of the Company shall be at the City of Rossland, or at such other place in the Province of British Columbia as may be thereafter determined upon by the Directors of the Company.
- Provisional Directors. **6.** The persons named in the first section of this Act shall be the Provisional Directors of the Company, and the said Provisional Directors (of whom two shall form a quorum) shall hold office as such until the first election of Directors under this Act, and may forthwith open books, and allot shares, and receive payment on account of the shares allotted, enter into contracts on behalf of the Company, and cause surveys and estimates to be made, and any one or more of them may authorise and empower any shareholder of the Company by proxy to act for one or more of them at any meeting of such Directors.
- General meeting for election of Directors. **7.** The Provisional Directors shall, within three months after this Act comes into operation, call a general meeting of the shareholders at such time or place as they may think proper, by giving at least fourteen (14) days' notice thereof by letter addressed to each shareholder of the time and place of such meeting, at which meeting the whole of the Provisional Directors shall retire from office, and a Board of not less than three nor more than seven Directors, as may be from time to time determined by the shareholders by resolution, shall be elected, and the Directors so elected shall hold office until the annual general meeting of the Company next after their respective election.

8. The Directors shall have full power to pass by-laws, rules, Directors' powers. regulations or resolutions for the management of the Company, and alter, amend or repeal the same as they deem necessary; the acquisition, management or disposition of its stock, subject to the approval, in general meeting assembled, of a majority in value of the shareholders; the declaration and payment of dividends out of the profits of the Company; the form and issuing of share certificates and the transfer of shares; the appointment and remuneration and removal of all officers, agents, clerks, workmen and servants of the Company; the rules to be observed by the officers and servants of the Company and all persons using the power appliances or property of the Company; and may also make rules and regulations for the maintenance of the Company's undertakings; the rates for compressed air and electricity supplied and rents for telephones, compressed air and electrical appliances let for hire, and for fixing the time or times when and the places where the same shall be payable, and for the collection of tolls for freight or ores, and fares for the carriage of passengers.

Electricity and Compressed Air.

9. The Company is hereby authorised and empowered to erect, Electrical and compressed air works, etc. construct, operate and maintain compressed air and electric works, power houses, generating plant and such other appliances and conveniences as are necessary and proper for the generating of compressed air and electricity, and for transmitting the same to any part of the said area to be used as a motive power for the tramways by this Act authorised, or other works of the Company, or to be supplied by the Company as a motive power for hauling, propelling, pumping, lighting, heating, smelting, crushing, milling or drilling, or any other operations of any nature or kind whatever for which compressed air or electricity may be used, supplied, applied or required. And for any of the above purposes the Company is hereby authorised and empowered by its servants, agents, contractors and workmen from time to time to make and erect such compressed air and electric works, and to sink, lay, place, fit, maintain and repair such wires, accumulators, storage batteries, transformers, cables, mains, pipes, switches, connections, branches, motors, dynamos, engines, machines, cuts, drains, water-courses, buildings and other devices, and to erect and place any electric line, cable, main, wire, pipe or other compressed air and electric apparatus above or below ground, along, over or across any street, bridge or highway, or any line or lines of railway, tramway or street railway in said area, and to erect poles or pipes for the purpose of placing the same in such manner as the Company shall think fit, necessary or proper for the purpose of carrying out the operations of the Company in respect of and incidental to the making, generating or supplying of compressed air and electricity.

Contracting for supply to persons, corporations, etc.

10. It shall be lawful for the Company to contract with any person, body corporate or politic, for supplying compressed air and electricity to any such person, body corporate or politic, or to any streets, ways, lanes, passages, tramways, mines, smelters, mills, manufactories, shops, warehouses, public or private houses, buildings and places, and for such purposes the Company may, from time to time, lay down, carry, fit up, connect and furnish any accumulator, storage battery, cable, wire, pipe, switch, connection, branch, burner, lamp, meter, transformer or other apparatus for or in connection with any compressed air or electric main, pipe, lead or cable which for such purposes may be required, and to let any such apparatus for hire for such sum as may be agreed upon.

Company's appointee may enter premises for certain purposes.

11. Any person appointed by the Company may, at all reasonable times, enter any premises to which compressed air or electricity is or has been supplied by the Company, in order to inspect the lines, accumulators, fittings, works and apparatus for the supply or application of compressed air and electricity belonging to the Company, and therein and for the purpose of ascertaining the quantity of compressed air and electricity consumed or supplied, or where a supply of compressed air or electricity is no longer required, or where the Company is authorised to take away or cut off the supply of compressed air or electricity from any premises for the purposes of removing any pipes, wires, accumulators, transformers, motors, distribution boards, meters, fittings, lamps, works, or other apparatus belonging to the Company.

Non-liability of Company's apparatus to seizure by distress, etc.

12. Where any electric lines, accumulators, transformers, motors, meters, generators, distribution boards, lamps, pipes, fittings, works or apparatus belonging to the Company are placed in or upon any premises not being in possession of the Company, for the purpose of supplying compressed air or electricity, such electric lines, accumulators, transformers, motors, meters, generators, distribution boards, lamps, pipes, fittings, works or apparatus, shall not be subject to distress for rent for the premises where the same may be, nor be taken in execution, under any process of law or equity, against the person in whose possession the same may be.

Cutting off supply for non-payment of dues.

13. If any person neglect to pay any charge for compressed air or electricity, or any other sum due from him to the Company, either in respect of the supply of compressed air or electricity to such person, or in respect of the rent reserved by the Company for the use of electric lines, meters, accumulators, transformers, motors, distribution boards, lamps, pipes, fittings, works or apparatus lent or supplied for hire to such persons, the Company may cut or disconnect any pipe or electric line or other work through which compressed air or electricity may be supplied, and remove such articles and works above mentioned as were lent for hire to such person.

14. The Company is hereby authorised and empowered to acquire, by purchase or otherwise, the right to use, and to use and employ, power already developed by others, at any point or points, and whether the same be in the form of electrical power, compressed air, or otherwise.

Use of power developed by others.

15. The Company may also, by its workmen, servants, or agents, enter into and upon any lands adjoining the works of the Company, or any line or lines of pipe, fluming or wire laid or erected by the Company as a means of transmitting power for or in connection with any of the purposes referred to in this Act, and clear the said lands of timber and underwood to such width on each side of the said works, or such line or lines of pipe, fluming, or wire, as aforesaid, as the Company may deem necessary for the proper protection of the same, subject, however, to making compensation for such clearing in manner herein-after mentioned.

Entry on adjoining lands to clear right of way.

Tramways.

16. The Company is hereby authorised and empowered to construct, maintain, complete and operate a line or lines of single or double track street railway or tramway, with all necessary switches, side tracks and turn outs, and all other requisite appliances in connection therewith, for the passage of cars, carriages and other vehicles adapted to the same, upon and along any street, highway, or bridge within any municipality in the said area, subject to the consent of the council of such municipality, and upon and along any land, street, bridge, or highway, in and throughout the said district, and to transport and carry passengers, freight and ores upon the same, by electricity, or such other motive power as the Company may deem expedient; and also to erect, maintain and construct all necessary works, buildings, pipes, poles, wires and appliances or conveniences necessary or proper for the use of the said street railway or tramway, or in connection therewith.

Tramway.

17. The several provisions of the "Tramway Company Incorporation Act, 1895," and any Act passed in substitution therefor, or any amendment thereto, save and except sections 1, 2, 3, 4, 5, 6, 11, 12 and 13, shall be incorporated into and shall be deemed to be part of this Act, and the Company shall have all the rights and privileges conferred, and in all things not herein provided for, shall conform to and be governed by the said "Tramway Company Incorporation Act, 1895," save in so far as the said "Tramway Company Incorporation Act, 1895," is modified or altered by this Act.

Application "Tramway Incorporation Act, 1895."

18. The Company shall publish for the period of one month in the British Columbia Gazette, and in one newspaper published in the District of West Kootenay, a notice stating the points between which it is proposed to build such tramway, and the general route of the same. The notice shall be signed by the Company.

Publication of intended route of tramway.

Persons through
whose lands line is
intended to be run
may object, etc.

19. Any person through whose lands the line is proposed to be run, or any railway or tramway company, whether proposed or in operation, whose line would be paralleled by the proposed tramway, may, within two months after the date of the first publication of the notice aforesaid in the British Columbia Gazette, give notice in writing, stating that he objects to the construction of the said tramway with the grounds of objections, to the Registrar of Joint Stock Companies, who shall notify the Company, and the matter shall then be referred to the Lieutenant-Governor in Council, who shall, after hearing evidence, upon oath if required, determine the same, and if he thinks it expedient, may sanction the construction of the tramway upon such conditions, if any, as he sees fit to impose. A certified copy of the Order in Council, determining the application, shall be transmitted to the Registrar of Joint Stock Companies.

Order in Council.

Permission to com-
mence construction.

20. The Company shall, after the publication of said notice, apply to the Registrar of Joint Stock Companies for permission to construct the said tramway, and if no notice of objections has been received by the Registrar of Joint Stock Companies within the time aforesaid, or if notice has been received by him, then, on receipt of a certified copy of an Order in Council sanctioning the construction of the said tramway, the Registrar shall grant permission for the construction of the said tramway.

Time for commence-
ment of construction.

21. The Company shall commence the actual construction of the said tramway line within a period of two months from the date of said permission, unless on good cause shown the Lieutenant-Governor in Council shall extend the said period, and shall continue and prosecute the construction of the said tramway until the same is completed: Provided always, that upon the Company failing to comply with the provisions of this section, the Lieutenant-Governor in Council may revoke the permission granted.

Telephone.

Telephone.

22. The Company may construct, erect and maintain a line or lines of telephone along the sides of and across or under any highways, streets, bridges or any line or lines of railway, tramway or street railway in any municipality in the said District of West Kootenay, or along the sides of and across or under any highways, streets, bridges or any such place in and throughout the said district, and the Company may, by its servants, workmen or agents, enter upon any highway, street, bridge or such other places as aforesaid for the purpose of erecting and maintaining its line or lines of telephone along the sides of or across or under the same, and may construct, erect and maintain such and so many poles and all other works and devices as the Company deems necessary for making, completing, supporting,

using, working and maintaining the system of communication by telephone, and may stretch wires thereon.

23. The Company may, by its by-laws fix, from time to time, a tariff of charges. tariff of charges for the connection and use of its wires and telephones and the transmission of messages, and shall have full power to collect, sue for and recover the charges to which it becomes entitled.

General Provisions.

24. The Company may purchase, lease or otherwise acquire for any term of years any street railway, tramway or telephone systems, established or to be established in British Columbia, connected or to be connected with the line or lines which this Company is authorised to construct, or may purchase, lease or otherwise acquire for any term of years the right of any company to construct and maintain any street railways, tramway or telephone systems, and may amalgamate with or lease its line or lines, or any portion or portions thereof, to any company possessing, as proprietor or otherwise, any lines of street railway, tramways or telegraph or telephone communication connecting or to be connected with the Company's line or lines, and the Company may enter into any agreement with any company possessing, as proprietor or otherwise, any line or lines of street railway, tramway or telephone or telegraphic systems upon any such terms as may be deemed expedient and advisable, and may become a shareholder in any such company.

General power to acquire and deal with street railways, tramways and telephone systems.

25. The Company may unite, amalgamate and consolidate its stock, property, business and franchises with any other company incorporated for all or any of the purposes which this Company is formed to carry on, and may sell, lease or otherwise dispose of any or all of its franchises, powers, rights, privileges and undertakings to any other company, person or persons, and may enter into working engagements with or may enter into a lease of or take and hold shares in, or acquire the right to work the line or lines of any other company which has been or may hereafter be empowered to carry on undertakings altogether or in any part similar to those of this Company.

Powers of amalgamation, consolidation, leasing, sale, etc.

26. The Company may, subject to the consent of the Chief Commissioner of Lands and Works, or of the proper authority having control of the streets, roads, highways and bridges, open and break up the soil and pavement, and any sewers, drains or tunnels within or under such streets, roads, highways and bridges, and lay down and place within the said limits its tracks, pipes, wires and poles, and from time to time repair, alter and remove the same, and for the purposes aforesaid, may remove and raise all earth and materials in and under

Laying of pipes, wires, etc., on streets, roads, bridges, etc.

such streets, highways and bridges, and do all other acts which the Company shall, from time to time, deem necessary for the purpose of running its line or lines of street railway and tramways and supplying compressed air and electricity and maintaining a telephone service as hereinbefore more fully specified, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Repairing, etc., of
roads.

27. When the Company opens or breaks up the roadway or pavement of any highway, street or bridge, or any sewer, drain or tunnel, it shall, with all convenient speed, complete the work for which the same shall be broken up, and shall fill in the ground, reinstate and make good the road or pavement, or the sewer, drain or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be open or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be opened or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up, in good repair for one month after replacing the same.

General power to
lease, hold lands,
electrical works, etc.

28. The Company may purchase, acquire, or lease and hold, and may sell, dispose of, or surrender any lands, buildings or tenements, and may, for all of or any of the said purposes, purchase or lease for any term of years any compressed air, electrical works, street railway, tramway or telephone systems established or to be established within the said District of West Kootenay, and may enter into working arrangements with, or may enter into a lease of, or acquire the right to work and operate any such systems, or to use the property and plant of such systems

Expropriation
powers.

29. It shall be lawful for the Company, its servants, agents or workmen, from time to time, and at all times hereafter, as they shall see fit, and they are hereby authorised and empowered to enter into and upon the land of any person or persons, bodies politic and corporate, set out and ascertain, take, expropriate, hold and enjoy such part or parts thereof as it may require for the purposes of the undertakings by this Act authorised, or any one or more of them, and to contract with the owners or occupiers of lands for the purchase thereof, or any part thereof, or of any right, easement or privilege that may be required for the purposes of the Company, and for the right to take all timber, stone, gravel, sand, and other materials, from the same for the use and construction of the said works of the Company.

30. In case of disagreement between the Company and the owner Arbitration.
or owners of the said lands, or of any such privilege or privileges, right
or rights as aforesaid, respecting the amount of purchase money or
value thereof, or as to the amount of damages arising through the
disturbance of the surface of any of the said lands, in the course or by
reason of the construction of any dams, reservoirs, raceways or flumes,
or the laying of any pipe, the same shall be decided by three arbitra-
tors, to be appointed as hereinafter mentioned, namely: The Company
shall appoint one, the owner or owners shall appoint another, and such
two arbitrators shall, after their appointment, appoint a third arbitrator.

31. The arbitrators to be appointed as hereinbefore mentioned shall Award.
award, determine and adjudge, and order, whether any, and if so, what
sum or sums of money the Company shall pay to any person or
persons in respect of any of the matters so referred, and the award of
the majority shall be final.

32. The several provisions of the "Arbitration Act, 1893," or of "Arbitration Act,
any Act passed in substitution thereof, shall be incorporated into and 1893."
deemed to be part of this Act, except in so far as the same may be
repugnant to or inconsistent with the express enactment hereof.

33. Upon payment or tender of the amount so awarded, the owners Tender of amount
or occupiers of the lands, rights or privileges aforesaid, shall, at the awarded.
cost and expense of the Company, make, do and execute all such acts,
deeds, matters and things necessary on the part of such owners or
occupiers, or any of them, to vest a complete and perfect title to the
said lands, rights or privileges in the said Company and its successors.

34. All actions or suits for indemnity for any damage or injury Limitation of time
sustained by reason of the works or operations of the Company, shall for commencement of
be commenced within twelve months next after the time when such actions against the
supposed injury is sustained, or if there is continuance of damage, Company.
within twelve months next after the doing or committing of such
damage ceases, and not afterwards, and the defendant may plead the
general issue, and give this Act and the special matter in evidence at
any trial to be had thereupon, and may prove that the same was done
in pursuance of and by authority of this Act.

35. The liability of the shareholders shall be limited to the amount Liability of share-
unpaid on their shares in accordance with, and as if the Company had holders.
been incorporated under Part First of the "Companies' Act," and the
Act of the Imperial Parliament passed in the twenty-fifth and twenty-
sixth years of the reign of Her Majesty, Queen Victoria, Chapter 89,
intituled the "Companies' Act, 1862," as herein modified; and the
Company shall have all the rights and privileges conferred, and in all
things not hereinbefore provided for, shall conform to and be governed
by the said Part First of the "Companies' Act," and the "Companies'

Act, 1862," save in so far as the said Part First of the "Companies' Act," and the "Companies' Act, 1862," is modified or altered by this Act.

Directors' borrowing powers.

36. The Directors of the Company may, from time to time, borrow, for the purposes of the Company, such sum or sums of money as they may consider expedient, and may issue bonds or debentures of the Company, in sums not less than one hundred dollars each, and on such terms and credit as they may think proper, and may pledge or mortgage all the property, tools, income and uncalled capital of the Company, or any part thereof, for the payment of the moneys so raised or borrowed, and the interest thereon: Provided, always, that before any such bonds or debentures are issued, the consent of three-fourths in value of the shareholders of the Company shall be first had and obtained at a special meeting to be called and held for that purpose.

Power to purchase, lease, exchange real and personal estate, etc.

37. The Company may purchase, take on lease, or in exchange, hire, or otherwise acquire, any real and personal property, and any water rights, mill sites, or other privileges which the Company may think necessary or convenient for the purposes of its business.

Rights hereby granted, subject to rights of the Crown and to future legislation, and rents, etc., to be imposed by Lieutenant-Governor.

38. The powers and privileges conferred by this Act, and the provisions hereof, are hereby declared to be granted, subject to the rights of the Crown, and also subject to any future legislation regarding the subject-matter of this Act, or of the powers and privileges hereby conferred, which the Legislature may see fit to adopt; and this Act is passed upon the express condition that the Lieutenant-Governor in Council may, from time to time, impose and reserve to the Crown, in the right of the Province, such rents, royalties, tolls and charges in respect of the waters, or of the lands of the Crown (if any), rights and privileges, which shall be set out, appropriated, or enjoyed by the Company, or are conferred by this Act, as by the Lieutenant-Governor in Council shall be deemed to be just and proper; and may likewise make and pass such regulations and rules as may be deemed necessary and advisable for the collection and enforcement of such rents, royalties, tolls and charges, or of any of them, but so that no increase in the amount of any such rents, royalties, etc., fixed by any such Order in Council, shall be made within the space of three years from the passage of the Order in Council fixing the same.

Time for construction of electric lines.

39. The Company shall begin the construction of its lines for conveying electricity within six months from the passage of this Act, and shall have the same completed so far as to enable it to supply power in the vicinity of Rossland, within two years from the passage of this Act.

Short title.

40. This Act may be cited as the "West Kootenay Power and Light Company, Limited, Act, 1897."