



CHAPTER 55.

An Act to Incorporate "The Fairview Power, Water and Telephone Company, Limited."

[8th May, 1897.]

WHEREAS W. A. Dier, A. A. Davidson and R. Russell, all of the City of Victoria, in the Province of British Columbia, have by their petition applied to be incorporated as a Company for the purpose of establishing water-works and supplying water for mining, domestic, manufacturing, fire and other purposes, to the inhabitants, corporations, mines, mills, manufactories and all other works of the Town of Fairview, in the Osoyoos Division of Yale District, in the Province of British Columbia, and of the surrounding district within a radius of seven miles from the present post office of Fairview aforesaid, and to lay pipes and erect flumes for the conveyance and supply of water to the said town and within the said radius; also to supply power, light and heat by compressed air and electricity to the inhabitants, corporations, mines, mills, manufactories and all other works of said town and radius for said purposes; and to construct, maintain and operate tramway and telephone systems in the said radius, and to extend the said systems to other districts contiguous thereto; and to erect, lay, construct and maintain all such works, bridges, tracks, roads, subways, buildings, flumes, dams, raceways, poles, pipes, wires, cables, structures and appliances as may be necessary to fully and completely carry out the purposes of the Company; and also to have the right to enter and expropriate lands, and to appropriate, take, use and divert so much of the water (not exceeding 5,000 inches) of the Okanagan River at some convenient point or points at "the Rapids" on said river, about three miles above the bridge across said river at Fairview, as may be required for all or any of the said purposes of the Company:

And whereas it is desirable to grant the prayer of the said petition in part, and also to confer upon the petitioners the powers and privileges hereinafter contained:

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

- Short title. **1.** This Act may be cited as the “Fairview Power, Water and Telephone Company (Limited) Act, 1897.”
- Incorporation. **2.** The said W. A. Dier, A. A. Davidson and R. Russell, together with such other persons and corporations as shall, in pursuance of this Act, become shareholders of the Company hereby incorporated, are hereby constituted a body corporate and politic under the name of “The Fairview Power, Water and Telephone Company, Limited,” hereinafter called “the Company.”
- Head office. **3.** The head office of the Company shall be at the City of Victoria, or at such other place in the Province as the Company may from time to time appoint.
- Amount of capital stock. **4.** The capital stock of the Company shall be three hundred thousand dollars, divided into three thousand shares of one hundred dollars each, which shall be applied first to the payment of all costs and expenses incurred in the passing of this Act, and the remainder for the purposes of the Company’s undertaking.
- Calls. **5.** No calls shall be made at any one time for more than twenty per cent. of the amount subscribed, nor shall a greater amount than eighty per cent. of the amount subscribed be called up in any one year. Calls shall not be made at a less interval than one month from the previous call.
- Liability of shareholders. **6.** The shareholders of the Company shall not as such be held responsible for any act, default or liability whatsoever of the Company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the Company, beyond the unpaid amount of their respective shares in the capital stock thereof.
- First Directors. **7.** The said W. A. Dier, A. A. Davidson and R. Russell shall be the first Directors of the Company.
- Election of Directors. **8.** At the first ordinary general meeting, and at every succeeding ordinary general meeting, the whole of the Directors shall retire from office, and the Company shall at every such meeting fill up the vacated offices by electing a like number of duly qualified members as Directors. The retiring Directors shall be eligible for re-election.
- Number of Directors. **9.** Until otherwise determined by a general meeting, the number of Directors shall be three, but the Company may increase or reduce the number of Directors so that the number of Directors shall not be more than seven nor less than three.

10. The first general meeting shall be held at such time (not being more than four months after the passing of this Act) and at such place as the Directors may determine. Subsequent ordinary general meetings shall be held thereafter once in each year on the third Monday in August.

First general meeting.

11. The business of an ordinary meeting shall be to receive and consider the profit and loss account and balance sheet, the reports of the Directors and the Auditors, to elect Directors and other officers in place of those retiring, to declare dividends, and to transact any other business which, under the "Companies' Clauses Act, 1897," ought to be transacted at an ordinary meeting, and any business which is brought under consideration by the report of the Directors issued with the notice convening such meeting.

Ordinary meetings; business of.

12. The Directors shall, upon a requisition made in writing by two or more shareholders holding in the aggregate one-third of the issued capital, convene an extraordinary meeting of the Company.

Extraordinary meetings.

13. In order to constitute a meeting (whether ordinary or extraordinary) there shall be present three or more shareholders holding, either personally or by proxy, in the aggregate not less than one-fourth of the subscribed capital stock of the Company.

How many shareholders to be present to constitute a meeting.

14. At all general meetings of the Company, every shareholder shall be entitled to have one vote for every share held by him, provided always that no shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then due upon the shares held by him.

Shareholders' right to vote.

15. The Company, with the sanction of the vote of the majority in value of the issued shares obtained at any meeting specially called for that purpose, may exercise any of the following powers:—

General powers to—

(a.) Raise any additional sum or sums by the issue of new ordinary shares or by the issue of new ordinary stock, or at the option of the Company by both of those modes, or by the issue of new preference shares, or by the issue of new preference stock, or at the option of the Company by both of those modes; and such preference shares or preference stock may bear interest not exceeding the rate of 12 per cent. per annum:

Issue new ordinary stock,

Or preference stock.

(b.) Borrow from time to time on mortgage or bond such sums of money as the Company shall think fit: Provided, however, the Directors may from time to time, at their discretion, raise or borrow, without the sanction of a general meeting, any sum or sums of money, for the purposes of the Company, but so that the amount at any one time owing in respect of the moneys raised or borrowed shall not, without the sanction of a general

Borrow on mortgage or bond.

meeting, exceed the sum of \$20,000. Nevertheless, no lender or other person dealing with the Company shall be concerned to see or inquire whether this limit is observed:

Debenture stock. (c.) Create and issue debenture stock, and may attach to the stock so created a fixed or perpetual preferential interest not exceeding the rate of 12 per cent. per annum, payable half-yearly or otherwise, and commencing at once or in future time or times when and as the debenture is issued, or otherwise as the Company thinks fit:

Change portion of capital into preference stock. (d.) Change a portion of its capital stock (not exceeding one-half) into preference stock, either of one class with the same privileges, or of several classes with different privileges, with any fixed, fluctuating, contingent, preferential, cumulative, perpetual, terminable, deferred or other dividend or interest, and subject to the payment of calls of such amounts and at such times as the Company from time to time shall think fit.

Application of "Companies Clauses Act, 1897." **16.** The provisions of the "Companies Clauses Act, 1897," shall apply to the Company and to the undertakings authorised hereby, save so far as they are expressly varied or excepted by this Act, or as any of the provisions hereof are repugnant to or inconsistent with the provisions of the said Act, in which case the provisions of this Act shall, to the extent of such repugnancy or inconsistency, govern.

Acquisition of water and water records. **17.** The Company shall have power to acquire water and water power by records of unrecorded water, or by the purchase of water records or water privileges for, and the application of such water and water-power to all or any of the purposes within the said area, and in any of the manners and methods following:—

Works therefor. (a.) For rendering water and water-power available for use, application and distribution, by erecting dams, increasing the head of water in any existing body of water, or extending the area thereof, diverting the waters of any stream, pond or lake into any other channel or channels, laying or erecting any line of flume, pipe or wire, constructing any raceway, reservoir, aqueduct, weir, wheel, building or other erection or work which may be required in connection with the improvement and use of the said water and water-power, or by altering, renewing, extending, improving, repairing or maintaining any such works or any part thereof.

Use of water power for generating of electricity and compressed air. **18.** The Company shall have power to use water or water-power for producing and generating electricity and compressed air within the said area for the purposes of light, heat and power, and for—

Construction of power houses, plant and electrical works. (a.) Constructing, operating and maintaining electric works, power houses, generating plant, and such other appliances and con-

veniences as are necessary and proper for the generating of electricity or electric power, and for transmitting the same to be used by the Company, or by persons, companies or corporations, contracting with the Company therefor, as a motive power for the operation of motors, machinery or electric lighting or other works, or to be supplied by the Company to consumers for heating or as a motive power for propelling tramways, or for driving, hauling, lifting, pumping, lighting, crushing, smelting, drilling and milling, or for any other operations to which it may be adapted, or to be used or supplied for or in connection with any other purposes for which electricity or electric power may be applied or required:

- (b.) Placing, sinking, laying, fitting, maintaining and repairing electric lines, accumulators, storage batteries, cables, mains, wires, pipes, switches, connections, branches, electric motors, dynamos, engines, machines, or other apparatus or devices, cuts, drains, water-courses, pipes, poles, buildings and other erections and works; and erecting and placing any electric line, cable, main, wire or apparatus above or below ground: Lines, batteries, motors, etc.
- (c.) Constructing, equipping, operating and maintaining electric cable or other tramways or street railways for the conveyance of passengers and freight: Tramways, street railways, etc.
- (d.) Constructing, equipping, operating and maintaining telegraph and telephone systems and lines. Telegraph and telephone lines.

19. The Company shall have the power of supplying compressed air, electricity and electric power to consumers for any purposes to or for which compressed air or electric power may be applied or required. Supplying of electricity, etc., to consumers.

20. The Company shall have power to construct, maintain, complete and operate a single or double track tramway, or any aerial or other tramway or tramways, with the necessary side-tracks and turnouts for the passage of cars, teams, carriages and other vehicles adapted to the same, and to build bridges and erect, acquire and maintain telegraph and telephone poles upon and along and above any lands or highways in the said Province which are in the line of the tramway intended to be built by the Company, subject in so far as the same passes over or along any highways, to the permission and under the supervision of the Chief Commissioner, who, if he shall see fit to give permission to operate on any highway, shall fix the location of the tramways over the said highways between the said points, and may direct the paving, macadamizing, repairing and grading of such highways, and the construction, opening up and repairing of ditches or drains along or across the said highways, and from time to time may give such directions as he may see fit and proper for the due protection and convenience of the Operation, etc., of tramways, etc.

Telegraph and telephone poles.

public, and the maintenance and preservation of public roads and highways, but in so far as the tramway, telegraph or telephone passes through or lies within the limits of any municipality, to the assent of the Council of such municipality, and to such regulations and conditions, modifications, changes, matters and things as such municipality may, from time to time, by by-law enact. The Company shall have power to take, transfer and carry passengers and ore, minerals and freight upon their tramway by the force or power of animals, or such steam, electric, water or other motive power as the Company may deem expedient.

Carrying of passengers and freight

General powers in connection with telegraph and telephone lines.

21. The Company shall have power to construct telegraph and telephone lines, and may establish offices for the transmission of messages for the public, and make rates and collect tolls for the use thereof by the public, and to do such other things as may be necessary to fully and completely carry on and operate such works, and for the purposes of erecting and working such telegraph and telephone lines the Company may enter into a contract with any other Company, foreign or domestic, or may lease any of the Company's lines or any portion thereof.

Application of Part IV. of "Water Clauses Consolidation Act, 1897."

22. For the purpose of carrying out such undertakings the Company shall (except as in this Act provided) be in the position of a Company duly incorporated in compliance with Part IV. of the "Water Clauses Consolidation Act, 1897," and with the like rights, powers, privileges and priorities, and subject, except as aforesaid, to the like conditions and restrictions, and all the provisions relating to a power company of Part IV. of the said Act (except such as relate to the incorporation of the Company, or as are herein excepted, altered or varied) shall apply to the Company.

Supplying of water to the Town of Fairview and surrounding district.

23. The Company shall, in addition to the powers hereinbefore mentioned, have the right to apply for one or more records of the unrecorded water in any rivers, streams or lakes, and to purchase any water records or water privileges as a source or sources of supply for a waterworks system, or branch of a system, or to augment any existing system or branch of such system for the conveyance and supply of water for mining, domestic, manufacturing, fire and other purposes to the inhabitants of the Town of Fairview, in the Osoyoos Division of Yale District, in the Province of British Columbia, and of the surrounding district within a radius of seven miles from the present post office of Fairview aforesaid, and for the purpose of carrying out such undertaking the Company shall (except as in this Act provided) be in the position of a company duly incorporated in compliance with the provisions of Part III. of the "Water Clauses Consolidation Act, 1897," and with the like rights, powers, privileges and priorities, and subject, except as afore-

said, to the like conditions and restrictions, and all the provisions relating to a water company of Part III. of the said Act (except such as relate to the incorporation of the Company, or as are herein excepted, altered or varied) shall apply to the Company.

24. All the provisions of Part V. of the "Water Clauses Consolidation Act, 1897," shall apply to the Company. "Water Clauses Consolidation Act, 1897," Part V.

25. Upon the Company at any time within one month from the date of the "Water Clauses Consolidation Act, 1897," coming into force, giving notice of the intention to apply for a record in pursuance of Parts III. and IV. of the "Water Clauses Consolidation Act, 1897," of the waters mentioned in the preamble of this Act, it shall as to such waters have priority over all notices of applications and applications made for records from any such sources, made since the 17th day of December, 1896, and not completed by record prior to the passage of this Act. Priority of application for water records.

26. All actions or suits for indemnity for any damage or injury sustained by reason of the works or operations of the Company shall be commenced within twelve months next after the time when such supposed damage is sustained, or if there is a continuance of damage, within twelve months next after the doing or committing of such damage has ceased, 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. Limitation of time for bringing of actions against the Company.

27. If by any public Act hereafter passed any of the sections of the "Water Clauses Consolidation Act, 1897," be repealed, extended, varied or otherwise amended, the provisions of such amending Act shall thereafter apply to such of the preceding sections or sub-sections as corresponds to the section or sub-section of the "Water Clauses Consolidation Act, 1897," amended, but such amendment shall not deprive the Company of the right to exercise or use or complete any power or privilege exercised or in use or commenced by the Company prior to or at the time of the passage of such amending Act. Application of future amendments to the "Water Clauses Consolidation Act, 1897."

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