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c 335 Public Utilities Act

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CHAPTER 335

The Public Utilities Act

1. In Parts III, IV, V and VI, "public utility" means water, artificial or natural gas, electrical power or energy, steam or hot water. R.S.O. 1950, c. 320, s. 1.

PART I

MUNICIPAL WATERWORKS

2.—(1) The corporation of a local municipality may, under and subject to the provisions of this Part, acquire, establish, maintain and operate waterworks, and may acquire by purchase or otherwise and may enter on and expropriate land, waters and water privileges and the right to divert any lake, river, pond, spring or stream of water, within or without the municipality, as may be deemed necessary for waterworks purposes, or for protecting the waterworks or preserving the purity of the water supply.

(2) No land, water or water privilege that is not situate within or within 15 miles of the municipality shall be expropriated under the powers conferred by subsection 1, and no water shall be taken from any lake or river except within or within 15 miles of the municipality, or in either case so as to interfere with the waterworks of any other municipal corporation or the supply of water therefor then in actual use.

(3) The corporation may purchase the waterworks of any person situate within or in the neighbourhood of the municipality and may improve and extend them, and, for the purpose of any improvement or extension, may exercise all the powers conferred by this Part.

(4) The council of the corporation may define an area in the municipality and may assess and levy on the rateable property in the area the cost of the waterworks including debenture charges, the cost of maintenance and management and the cost of the water, or any part thereof. R.S.O. 1950, c. 320, s. 2.

3. Parts XV and XVI of The Municipal Act apply to the exercise by the corporation of any of the powers conferred by this Part. R.S.O. 1950, c. 320, s. 3; 1958, c. 91, s. 1.
4.—(1) The corporation may construct and maintain, in and upon the land acquired by it, such reservoirs, water and other works, plant and machinery as may be requisite for the undertaking, and may, by pipes or otherwise, convey the water thereto and therefrom, in, upon and through any land lying between the reservoirs and waterworks and the lake, river, pond, spring or stream of water from which the water is procured or between them, or any of them, and the municipality.

(2) The corporation and its servants may for such purposes enter and pass upon and over such intermediate land, and may, if necessary, cut and dig up the same and lay pipes through it, and in, upon, through, over and under the highways, lanes and other public communications within the municipality, or within the distance limited by subsection 2 of section 2, and in, upon, through, over and under the land of any person within the municipality.

(3) All such highways, lanes or other public communications, and all land, not being the property of the corporation, shall be restored to their original condition without unnecessary delay.

(4) The corporation may purchase or expropriate, use and occupy such part of such intermediate land as it may deem necessary for the making and maintaining of the works, or for the opening of new streets required for the same, or for the protection of the works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the pipes, and for distributing water to the inhabitants of the municipality, or for the uses of the corporation or of the owners or occupants of the land through or near which the pipes may pass. R.S.O. 1950, c. 320, s. 4.

5. For the purpose of distributing the water the corporation may sink and lay down pipes, tanks, reservoirs and other conveniences, and may from time to time alter their location or construction as the corporation may deem advisable. R.S.O. 1950, c. 320, s. 5.

6.—(1) The service pipes shall be laid down from the main pipe to the line of the highway by the corporation, and the corporation is responsible for keeping the same in repair.

(2) Where a vacant space intervenes between the outer line of a highway and the wall of a building or other place into which the water is to be taken, the corporation may, with the consent of the owner, lay the service pipe across the vacant space to the interior face of the outer wall and charge the cost thereof to the owner of the premises, or the owner may himself lay the service pipe, if it is done to the satisfaction of the corporation.
Sec. 9 (1)  PUBLIC UTILITIES  Chap. 335  333

(3) The expense incidental to the laying and repairing of service pipes if laid or repaired by the corporation, except the repairing of the service pipes from the main pipe to the line of a highway, or of superintending the laying or repairing of the same if laid or repaired by any other person, is payable by the owner to the corporation on demand, and if not so paid may be collected in the same manner as water rates.

(4) The expense of superintending the laying or repairing of a service pipe shall not exceed $1.  R.S.O. 1950, c. 320, s. 6.

7.—(1) The service pipes from the line of a highway to the interior face of the outer wall of the building supplied, together with all branches, couplings, stopcocks and apparatus placed therein by the corporation are under its control, and if any damage is done to that portion of the service pipe or its fittings the owner or occupant of the building shall forthwith repair the same to the satisfaction of the corporation, and, in default of his so doing, whether notified or not, the corporation may enter upon the land where the service pipe is and repair the same, and charge the cost thereof to the owner or occupant of the premises, and the cost may be collected in the same manner as water rates.

(2) The stopcock placed by the corporation inside the wall of the building shall not be used by the water taker, except in case of accident, or for the protection of the building or the pipe and to prevent the flooding of the premises.

(3) Persons supplied with water by the corporation may be required to place only such taps for drawing and shutting off the water as are approved of by the corporation.  R.S.O. 1950, c. 320, s. 7.

8. The corporation may regulate the distribution and use of the water in all places where and for all purposes for which it may be required, and fix the prices for the use thereof, and the times of payment, and may erect such number of public hydrants and in such places as it may see fit, and may direct in what manner and for what purposes the same shall be used, and may fix the rate or rent to be paid for the use of the water by hydrants, fireplugs and public buildings.  R.S.O. 1950, c. 320, s. 8.

9.—(1) The corporation of every municipality having a system of waterworks shall supply water at all times to all public institutions situate therein or within three miles thereof and belonging to or maintained by the Province at such rents, rates or prices as may be fixed by by-law of the corporation, but not exceeding those charged to manufacturers, provided
that any expenditure on works beyond the limits of the municipality chargeable to capital account, shall be borne and paid by the Province.

Penalty

(2) For every contravention of subsection 1, the corporation is liable to a penalty of not more than $500, recoverable by action at the suit of the Crown. R.S.O. 1950, c. 320, s. 9.

Non-liability for breakage or stoppage

10. The corporation is not liable for damages caused by the breaking of any service pipe or attachment, or for shutting off of water to repair or to tap mains, if reasonable notice of the intention to shut off the water is given. R.S.O. 1950, c. 320, s. 10.

Power to supply water outside municipality

11.—(1) A corporation may supply water to owners or occupants of land beyond the limits of the municipality. R.S.O. 1950, c. 320, s. 11 (1).

(2) A corporation may enter into a contract for a term not exceeding twenty years for the supply of water,

(a) to any person within or beyond the limits of the municipality; and

(b) to any other municipality, as defined in The Department of Municipal Affairs Act, for its use or for resale or to the inhabitants thereof for their use,

and may renew any such contract. 1951, c. 75, s. 1 (1).

Consent to lay pipes

(3) Where water is supplied in a municipality that has a waterworks, no pipes for such purpose shall be carried in, upon, through, over or under any highway, lane or public communication within the municipality without the consent of the council thereof. R.S.O. 1950, c. 320, s. 11 (3).

Laying of pipes in supplying municipality

(4) Subject to sections 2 to 4, where a municipality contracts to purchase water from a municipal corporation, it may with the consent of the council of the supplying municipality enter upon the lands and streets within the supplying municipality to lay and maintain such pipes as are necessary to obtain the water from the waterworks system of the supplying municipality. 1951, c. 75, s. 1 (2).

Power to regulate supply and to prohibit wrongful use of water

12. The corporation may pass by-laws for regulating the time, manner, extent and nature of the supply by the works, the building or persons to which and to whom the water shall be furnished, the price to be paid therefor, and every other matter or thing related to or connected therewith that it may be necessary or proper to regulate, in order to secure to the inhabitants of the municipality a continued and abundant supply of pure and wholesome water, and to prevent the prac-
tising of frauds upon the corporation with regard to the water so supplied, and for providing that for a contravention of any such by-law the offender is guilty of an offence and on summary conviction is liable to a fine of not more than $20 or may be imprisoned without the option of a fine for a term of not more than one month. R.S.O. 1950, c. 320, s. 12.

13. Every person who,

(a) wilfully hinders or interrupts, or causes or procures to be hindered or interrupted the corporation, or any of its officers, contractors, agents, servants or workmen, in the exercise of any of the powers conferred by this Act;

(b) wilfully lets off or discharges water so that the water runs waste or useless out of the works;

(c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own, increases the supply of water agreed for, or improperly wastes the water;

(d) without lawful authority wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stopcock, chamber, pipe, or hydrant-chamber, by placing on it any building material, rubbish, or other obstruction;

(e) throws or deposits any injurious, noisome or offensive matter into the water or waterworks, or upon the ice, if the water is frozen, or in any way fouls the water or commits any wilful damage, or injury to the works, pipes, or water, or encourages the same to be done;

(f) wilfully alters any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or alter the amount of water registered; or

(g) lays or causes to be laid any pipe or main to communicate with any pipe or main of the waterworks, or in any way obtains or uses the water without the consent of the corporation,
is guilty of an offence and on summary conviction is liable to a fine of not more than $20 or may be imprisoned, without the option of a fine, for a term of not more than one month. R.S.O. 1950, c. 320, ss. 13, 57; 1958, c. 91, s. 2.
14.—(1) For the purpose of assisting in the payment of any debentures issued for waterworks purposes, and the interest thereon, the corporation may impose a special tax in each year, during the currency of the debentures, not exceeding four mills in the dollar according to the assessed value thereof, upon the land fronting or abutting upon any highway, lane or other public communication in, through or along which the waterworks mains are laid, as well as all other land distant not more than 300 feet therefrom, which enjoy the advantage of the use of the water for the purpose of protection against fire, whether or not the owners or occupants thereof use the water for general purposes.

(2) The collector of taxes, upon the production by an owner or occupant using the water of the receipt for the payment of the rate or rent chargeable for the use thereof during the year, or such proportion thereof as equals the special tax, shall remit or allow to the owner or occupant the amount so paid as a payment of or on account of the special tax. R.S.O. 1950, c. 320, s. 14.

15. If one or more property owners within a municipality applies to the council for the construction of water mains and other works necessary to connect their properties with the waterworks system of the corporation, the council may by by-law provide for the extension of the mains and pipes and for all other works necessary to make the connection, and for permitting the applicants to receive the benefit of the waterworks upon such terms as the council may deem just, and the by-law may further provide that the cost of the work shall be charged as an annual special rate upon the land of the applicants, designated in the application, and the rate shall be payable whether or not the applicants or the owners for the time being of the lands continue to use the water. R.S.O. 1950, c. 320, s. 15.

16.—(1) The corporation may impose a special rate or rent in respect of the cost or maintenance of a water main on persons who own or occupy land in the municipality or in a water area where the land fronts or abuts on a highway, lane or other public communication in, through or along which the main is laid, provided no such person is liable to pay a special rate or rent in respect of the cost of the main where local improvement rates for the main have been or are being levied upon the land so owned or occupied.

(2) The special rate or rent may be collected in the same manner and with like remedies as water rates or in the same manner and with like remedies as taxes under The Assessment Act. R.S.O. 1950, c. 320, s. 16.
17. In this Part, "public utility" means artificial and natural gas, electrical power or energy, steam or hot water. R.S.O. 1950, c. 320, s. 17.

18.—(1) The corporation of any municipality may manufacture, procure, produce and supply for its own use and the use of the inhabitants of the municipality any public utility for any purpose for which the utility may be used, and for such purposes may purchase, construct, improve, extend, maintain and operate any works that may be deemed requisite and may acquire any patent or other right for the manufacture, production or supply of any such public utility, and for any of the said purposes or for any purpose for which a public utility may be used, may acquire by purchase or otherwise fittings, fixtures, apparatus, appliances, machines, meters and other equipment and may supply or dispose of the same by sale, lease or otherwise and may provide for the installation and maintenance thereof in or upon the lands and premises of users of the public utility.

(2) The corporation may sell and dispose of coke, tar, and every other by-product or residuum obtained in or from its works, and any surplus coal it may have on hand.

(3) The corporation may purchase or rent such land and buildings as may be deemed necessary for the purpose of its undertaking. R.S.O. 1950, c. 320, s. 18.

19.—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into, the corporation of any municipality or any municipal commission established under this or any other Act which supplies to any person electrical power or energy supplied to it by The Hydro-Electric Power Commission of Ontario may allocate and distribute its available power amongst its customers and interrupt or decrease the delivery of electrical power or energy under any contract at any time that its own supply of electrical power or energy is interrupted or decreased by The Hydro-Electric Power Commission of Ontario pursuant to The Power Commission Act. R.S.O. 1960, c. 300

(2) Nothing done under subsection 1 shall be deemed a breach of contract or entitles any person to rescind any contract or release any guarantor from performance of his obligations. R.S.O. 1950, c. 320, s. 19.
20. The corporation may acquire by purchase, lease or otherwise, or may expropriate any land in the municipality that may be required for its works or any extension thereof, and Part XV of The Municipal Act applies to the exercise by the corporation of the power to expropriate and of the power conferred by section 23. R.S.O. 1950, c. 320, s. 20.

21. The corporation, for the purpose of any municipal public utility works, has and always has had authority to put down, carry, install, construct, erect and maintain such conduits, pipes, wires, poles, rods, cables, transformers, machinery, apparatus, devices, appliances, equipment, materials, structures or works as it deems necessary or desirable, on, over, under or across any highway, lane or other public communication or, with the consent of the owner of private property, on, over, under or across such private property and has and always has had authority to remove or replace any of them. 1957, c. 103, s. 1, part.

22.—(1) The corporation may carry conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment to any part of any building within the municipality parts of which belong to different owners, or are in possession of different tenants or occupants, passing over the property of any owner or of any tenant or occupant to convey the public utility to the part of the building to which it is to be conveyed.

(2) Such conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment shall be carried up and attached to the outside of the building unless consent is obtained from the owner, tenant or occupant concerned to carry them in the inside of the building. 1957, c. 103, s. 1, part.

23. The corporation may also break up and uplift all passages common to neighbouring owners, tenants or occupants, and dig or cut trenches therein, for the purpose of laying down conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment, or taking up, examining or repairing the same, and shall do as little damage as possible in the execution of the powers hereby conferred, and shall restore such passages to their original condition without unnecessary delay. 1957, c. 103, s. 1, part.

24. The corporation may enter into a contract for the supply of a public utility to any person, including a municipality as defined in The Department of Municipal Affairs Act, for a term not exceeding twenty years, and may renew any such contract. 1951, c. 75, s. 2.
25. A corporation possessing or intending to construct works under this Act may, under the authority of a by-law of an adjoining local municipality, exercise the like powers within the adjoining municipality, including the power to supply the public utility to owners and occupants of land in the adjoining municipality, as it may exercise within its own municipality upon such terms and conditions as may be agreed upon. R.S.O. 1950, c. 320, s. 25.

PART III

ALL MUNICIPAL PUBLIC UTILITIES

26. This Part applies to all municipal corporations owning or operating public utilities. R.S.O. 1950, c. 320, s. 26.

27.—(1) The council may pass by-laws for the maintenance and management of the works and the conduct of the officers and others employed in connection with them, and may also by by-law or resolution fix the rates or charges for supplying the public utility and the charges to meet the cost of any work or service done or furnished for the purpose of a supply of a public utility, and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to consumers and provide for the collection of such rates, charges and rents, and the times and places when and where they shall be payable, and for allowing for prepayment or punctual payment such discount as may be deemed expedient.

(2) In fixing the rents, rates or prices to be paid for the supply of a public utility the corporation may use its discretion as to the rents, rates or prices to be charged to the various classes of consumers and also as to the rents, rates or prices at which a public utility shall be supplied for the different purposes for which it may be supplied or required.

(3) In default of payment the corporation may shut off the supply but the rents or rates in default are, nevertheless, recoverable.

(4) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to The Hydro-Electric Power Commission of Ontario is a debt and may be recovered by action in a court of competent jurisdiction. R.S.O. 1950, c. 320, s. 27.

28. No rate to provide for the maintenance or management of any utility shall be levied except to the extent to which the revenues from the utility are insufficient for such purposes. R.S.O. 1950, c. 320, s. 28.
29.—(1) Where The Hydro-Electric Power Commission of Ontario changes the periodicity in alternations of current at which it supplies electrical power or energy to a municipal corporation or a commission, the corporation or commission may change the periodicity in alternations of current at which it supplies that electrical power or energy to any person, notwithstanding any agreement heretofore or hereafter made.

(2) Nothing done under subsection 1 shall be deemed a breach of contract by the municipal corporation or commission or entitles any person to rescind any agreement or release any guarantor from the performance of his obligation, or renders the municipal corporation or commission, its servants or agents liable in any action or other legal proceeding for damages or otherwise. R.S.O. 1950, c. 320, s. 29.

30.—(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to The Hydro-Electric Power Commission of Ontario for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands.

(2) The clerk of the municipality shall, upon notice to him of the amount due and of the person by whom it is due and of the lands upon which a lien is claimed, enter the amount upon the collector’s roll and the collector shall proceed to collect the amount from the goods and chattels and the estate or interest in the lands of the person liable in the same way, as nearly as may be, as municipal taxes are collected.

(3) The municipal corporation or the public utility or hydro-electric commission, before taking proceedings under subsection 2, may itself distrain upon the goods and chattels of the person liable to pay for the amount due for any public utility supplied to him.

(4) In the event of the owner of the goods and chattels or of the land disputing the amount payable for the public utility, the question of the amount due may be determined by the judge of the county court upon a summary application at the instance of either party and the collector’s roll or distress warrant shall, if necessary, be amended in accordance with the findings of the judge. R.S.O. 1950, c. 320, s. 30.

31. The officers of the corporation, when acting in the discharge of their duties under this Act, are constables ex officio. R.S.O. 1950, c. 320, s. 31.
32. No action shall be brought against any person for anything done in pursuance of this Act, but within six months next after the act committed, or in case there is a continuation of damage, within one year after the original cause of action arose. R.S.O. 1950, c. 320, s. 32.

33. Materials procured under contract with the corporation and upon which the corporation has made advances in accordance with the contract, are exempt from execution against the person who supplied or contracted to supply the materials. R.S.O. 1950, c. 320, s. 33.

34. The public utility works and the land acquired for the purpose thereof and the property appertaining thereto, are specially charged with the repayment of any sum borrowed by the corporation for the purposes thereof, and for any debentures issued therefor, and the holders of the debentures have a preferential charge on such works, land and property for securing the payment of the debentures and the interest thereon. R.S.O. 1950, c. 320, s. 34.

35.-(1) Notwithstanding anything in The Municipal Act, the receipts arising from supplying any public utility or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operations of the utility and after making any provision authorized by the council for a reserve fund established under section 298 of The Municipal Act, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality and shall be placed to the credit of the utility in a separate account until the debentures and other forms of capital debt have been retired, and thereafter shall form part of the general funds of the municipality. R.S.O. 1950, c. 320, s. 35 (1); 1951, c. 75, s. 3.

(2) Where debentures or other forms of capital debt are outstanding in any year against the utility, the treasurer of the municipality shall apply the receipts paid over under subsection I in payment of the amount required to be levied under any debenture by-law of the municipality for the construction, extension or improvement of the utility, or with the approval of the council or the Department of Municipal Affairs,

(a) in payment of temporary advances required for current expenditures of the utility pending the collection of revenue; or

(b) in the reduction of any indebtedness incurred with respect to the works and equipment of the utility; or

(c) in the maintenance, repair, renewal or extension of the utility; or
(d) in establishing a reserve fund to be used at any future time for any purpose mentioned in this subsection. R.S.O. 1950, c. 320, s. 35 (2); 1957, c. 103, s. 2.

Where levy of rate necessary

R.S.O. 1960, c. 223

(3) It is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under The Local Improvement Act, except to the extent to which the receipts paid over under subsection 1 are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1950, c. 320, s. 35 (3); 1958, c. 91, s. 3.

Electric utilities excepted

R.S.O. 1960, cc. 300, 223

(4) This section does not apply to any electrical public utility for which electrical power and energy are supplied by The Hydro-Electric Power Commission of Ontario. R.S.O. 1950, c. 320, s. 35 (4).

Electrical utilities

36. The receipts arising from supplying an electrical public utility for which electrical power and energy are supplied by The Hydro-Electric Power Commission of Ontario or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operation of the utility and any payments required by The Power Commission Act, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality to the extent and in such amounts as are necessary to provide for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the distribution of electrical power and energy, and it is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under The Local Improvement Act, except to the extent to which the receipts paid over hereunder are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1950, c. 320, s. 36; 1960, c. 100, s. 1.

Disposal of public utility properties

37.—(1) Subject to subsections 4, 5 and 6 and notwithstanding section 34 the corporation may, free from any charge or lien, sell, lease or otherwise dispose of a public utility undertaking, or the whole or any part of the real or personal property acquired, held or used for or in connection with a public utility undertaking, which in the opinion of the council is no longer required for the purpose of the corporation or for the undertaking.
(2) The proceeds derived from any sale, lease or other disposition of such undertaking or property shall be applied in redemption and payment of any debentures of the corporation issued in respect of the public utility undertaking, or if there are no such debentures, then in case of sale or disposal of a portion only of the property the proceeds thereof shall be applied for the undertaking in connection with which the property was held or used and in case of sale or disposal of the whole of the property or of the undertaking the proceeds thereof shall form part of the general funds of the corporation, and any security received or held by the corporation for any part of the consideration payable on the sale, lease or other disposition shall stand as security for such debentures or be applied for the undertaking or form part of the general funds of the corporation, as the case may be.

(3) In a case where there are no debentures to the redemption and payment of which proceeds derived from any sale or disposal of an undertaking or property may be applied, the proceeds may be applied in redemption of other debentures of the corporation or with the approval of the Ontario Municipal Board may be applied for purposes of a capital nature; provided that where a portion only of the property of an undertaking for the supply of electrical power or energy obtained from The Hydro-Electric Power Commission of Ontario is sold or disposed of the proceeds shall be applied only as that Commission may approve.

(4) A corporation shall not sell, lease or otherwise dispose of the whole of a public utility undertaking or the whole of the property acquired, held or used for or in connection with a public utility undertaking without the assent of the electors qualified to vote on money by-laws first being obtained thereto in the manner provided by The Municipal Act with respect to a money by-law requiring the assent of the electors.

(5) A corporation shall not sell, lease or otherwise dispose of a portion only of the property acquired or held for or in connection with a public utility undertaking so long as that portion is actually used for the purposes of the undertaking, except with the approval of the Ontario Municipal Board, and on such application the Board may direct that the assent of the electors qualified to vote on money by-laws shall first be obtained in the manner aforesaid.

(6) A corporation shall not sell, lease or otherwise dispose of the whole of the public utility undertaking for the supply of electrical power or energy obtained directly or indirectly from The Hydro-Electric Power Commission of Ontario or of the whole of the property acquired, held or used for or in connection therewith or of any part thereof that is no longer
required for the undertaking or for the purpose of the corporation, or for so long as the undertaking is being operated by or for the corporation, sell, lease or otherwise dispose of any part of the property that is actually used for the purposes of the undertaking without the assent of The Hydro-Electric Power Commission of Ontario first being obtained thereto.

(7) Where the powers of a corporation with respect to a public utility undertaking are exercised by a commission, the council shall, upon the request of the commission, submit to the qualified electors a by-law to authorize any sale, lease or other disposition of the undertaking or the whole or any part of the property acquired, held or used for or in connection therewith that under this section is required to be assented to by the electors.

(8) Subsections 4, 5 and 6 do not apply to a lease for a term not exceeding five years of a portion of the property of a public utility undertaking.

(9) This section applies to sales, leases and other dispositions of a public utility undertaking and of any property acquired, held or used for or in connection with a public utility undertaking, completed after the 1st day of March, 1931. R.S.O. 1950, c. 320, s. 37.

PUBLIe UTILITY COMMISSION

38.—(1) Subject to subsections 2 to 6, the council of a municipal corporation that owns or operates works for the production, manufacture or supply of any public utility or is about to establish such works, and the council of a township corporation that has entered into a contract with The Hydro-Electric Power Commission of Ontario for a supply of electrical power or energy in the township, may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the works and the control and management of the works to a commission to be called “The Public Utilities Commission of the (naming the municipality),” or in the case of such township, “The Hydro-Electric Commission of the Township of (naming the township),” or to a commission established under this Part.

(2) Where the corporation of a village has entered into a contract with The Hydro-Electric Power Commission of Ontario under The Power Commission Act for a supply of electrical power or energy, a commission may be established by by-law of the council under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and it is not necessary that the by-law receive the assent of the electors.
(3) Every such commission established by the council of a village before the 12th day of April, 1917 shall be deemed to have been lawfully established, and the by-law establishing the commission shall be deemed to be and to have been legal, valid and binding from the time of the passing thereof, notwithstanding that the by-law was passed and the commission was established without the assent of the electors first having been obtained.

(4) A by-law passed by the council of a village for the establishment of a commission without the assent of the electors may be repealed by the council at any time and it is not necessary to obtain the assent of the electors to the repeal.

(5) Where a by-law establishing a commission in a village has been passed with the assent of the electors the by-law may be repealed with the like assent.

(6) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works are vested in the council and the commission ceases to exist.

R.S.O. 1950, c. 320, s. 38.

39. A commission established under The Municipal Light and Heat Act or The Municipal Waterworks Act, being chapters 234 and 235 of The Revised Statutes of Ontario, 1897, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall be deemed to be a commission established under this Part and the provisions of this Part apply to it. R.S.O. 1950, c. 320, s. 39.

40.—(1) Where a commission has been established under this Part as to any public utility and the corporation desires to entrust the control and management of any other public utility works to a commission, subject to subsection 3, such control and management shall be entrusted to the commission so established, or if there is more than one commission so established to one of them, or the by-law may provide for placing under the control and management of one commission all public utility works owned by the corporation.

(2) Where the construction of any other public utility works and the control and management of them is entrusted to any of the commissions mentioned in section 39, the commission thereafter shall be called “The Public Utility Commission of the (naming the municipality)”.

(3) Where the corporation of a city or town has entered into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy, a commission established under this Part shall have the same powers and duties as a commission established under The Hydro-Electric Power Commission Act of Ontario.
mission shall be established under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and for the purposes of this subsection it is not necessary that the by-law receive the assent of the electors, or such control and management shall be entrusted to an existing public utilities commission, and, where the commission is not entrusted with the control and management of any other public utility, it shall be called “The Hydro-Electric Commission of the (naming the municipality)”.

(4) Subsection 3 is subject to any special Act providing for the control and management of such works.

(5) A By-law of the council, for the purposes mentioned in subsection 3, shall not be repealed without the consent of the Hydro-Electric Power Commission of Ontario.

(6) If no commission has been established under this Part to which the control and management of a sewerage system, to which paragraph 5 of section 386 of The Municipal Act applies, may be entrusted, a commission may be established under this Part for the control and management of the sewerage system, and the provisions of this Part apply to it. R.S.O. 1950, c. 320, s. 40.

41.—(1) Subject to subsection 4, where a commission has been established under this Part and the members thereof have been elected or where the control and management of any other public utility works are entrusted to a commission established under this Part, all the powers, rights, authorities and privileges that are by this Act conferred on a corporation shall, while the by-laws for establishing the commission or entrusting it with the control and management remain in force, be exercised by the commission and not by the council of the corporation.

(2) The officers and employees of the corporation shall be continued until removed by the commission unless their engagement sooner terminates.

(3) Every officer, employee and servant of a commission shall hold office during the pleasure of the commission.

(4) Nothing in this section divests the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided, and nothing in this Act divests the council of the rights and powers conferred upon it by The Local Improvement Act.
(5) Where the construction or control and management of a public utility works belonging to a municipal corporation is entrusted to a commission,

(a) no part of the works shall be undertaken in or extended into and no supply of the public utility shall be furnished to or in any other municipality by the commission without the consent of the council of the corporation to which the public utility works belong; and

(b) no extensions, additions, enlargements, improvements or alterations in, of or to the works shall be undertaken by the commission without the consent of the council of the corporation to which the public utility works belong, if the cost or any part of the cost is intended to be provided for out of moneys that under section 35 are required to be paid to the treasurer of the municipality. R.S.O. 1950, c. 320, s. 41.

42.—(1) A commission established under this Part is a body corporate and shall consist of three or five members as may be provided by the by-law, of whom the head of the council shall be one ex officio and the others shall be elected at the same time and place and in the same manner as the head of the council, and subject to subsection 3 the elected members shall hold office for two years and until their successors are elected and the new commission is organized.

(2) When the commission functions in a defined area or areas, the members to be elected shall be elected by the electors of the area or areas, as the case may be.

(3) One-half of the first elected members shall hold office for two years and the other one-half for one year, and shall continue in office until their successors are elected and the new commission is organized.

(4) At the first meeting of the commission after the first election the members who are to hold office for two years shall be chosen by lot.

(5) Where a commission has been in existence for not less than five years, the council of the corporation may by by-law provide that from the time of the municipal elections next ensuing the number of members of the commission,

(a) if it consists of three members, shall be increased to five members; or

(b) if it consists of five members, shall be decreased to three members,
subject, however, to the assent of the electors if the existing number of members was established by a by-law passed with the assent of the electors.

(6) Where the number of members of a commission is to be increased to five members the elected member then holding office for a term that does not expire until the end of the next succeeding year shall not be affected and he may continue to hold office until the expiration of the term for which he was elected, and at the municipal elections next ensuing after the by-law is passed three members of the commission shall be elected of whom the two elected who receive the highest number of votes shall hold office for a term of two years and until their successors are elected and the third elected shall hold office for a term of one year and until his successor is elected.

(7) Where the number of members of a commission is to be decreased to three members, that one of the two members last elected for a term of two years who received the highest number of votes shall continue to hold office until the expiration of the term for which he was elected and the other three members shall hold office until the expiration of the then current year only; and at the municipal elections next ensuing after the by-law is passed, one member of the commission shall be elected to hold office for a term of two years and until his successor is elected.

(8) Where in subsection 6 or 7 it is provided that the term of office of any member be determined in relation to the number of votes he received at his election and such determination is impossible by reason of an acclamation to office or there having been an equality of votes at the election, the matter shall be determined by the casting of lots by the members affected.

(9) At every election after the first municipal election the members or member to be elected as provided in subsection 6 or 7 shall be elected for a term of two years and until their respective successors are elected.

(10) Nothing in subsections 5, 6, 7 and 9 affects the ex officio membership in a commission of the head of the council.

(11) Where the number of members of a commission is increased or decreased by a by-law passed under subsection 5, no further change in the number of members shall be made until the by-law has been in force for not less than five years.

(12) Except where otherwise expressly provided, the provisions of Parts II, III and IV of The Municipal Act that are applicable to members of the council of a local municipality apply mutatis mutandis to the commissioners to be elected under this Part. R.S.O. 1950, c. 320, s. 42.
43.-(1) Where a vacancy in the commission occurs for any cause the council shall immediately appoint a successor who shall hold office during the remainder of the term for which his predecessor was elected.

(2) A majority of the commissioners constitutes a quorum of the commission. R.S.O. 1950, c. 320, s. 43.

44.-(1) The salary, if any, of the commissioners shall from time to time be fixed by the council and no member of the council, except the head thereof, shall at the same time be a member of the commission.

(2) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by The Hydro-Electric Power Commission of Ontario, the salary or other remuneration of the commissioners, so far as it is chargeable to such works, is subject to the approval of The Hydro-Electric Power Commission of Ontario, and when the approval has been given the salary or other remuneration shall not be changed or discontinued by the council without the consent of The Hydro-Electric Power Commission of Ontario.

(3) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by The Hydro-Electric Power Commission of Ontario and also the control and management of works for one or more other public utilities, no utility shall be charged with more than its pro rata share, according to the number of utilities operated, of any costs, charges and expenditures incurred or made by the commission for any joint purpose, including rents and the salaries of the joint employees without the consent and approval of The Hydro-Electric Power Commission of Ontario.

(4) Where electrical power or energy received under contract from The Hydro-Electric Power Commission of Ontario is being distributed in a municipality the electric utility shall not be charged with more than its pro rata share approved by The Hydro-Electric Power Commission of Ontario of any costs, charges and expenditures incurred or made jointly for the purpose of the utility and for any other municipal purpose including in such costs, charges and expenditures all rents and the salaries and wages of joint employees. R.S.O. 1950, c. 320, s. 44.

45.—(1) The council may, by by-law passed with the assent of the municipal electors, repeal any by-law passed under sections 38, 39 and 40.
(2) Where a by-law is repealed the council shall apportion the current year's salary of the commissioners, and any officer or employee of the commission shall be continued until removed by the council unless his engagement sooner terminates. R.S.O. 1950, c. 320, s. 45.

4.6.—(1) Separate books and accounts of the revenues derived from every public utility under its management shall be kept by the commission, and such books and accounts shall also be kept separate from the books and accounts relating to the other property, funds, or assets connected with such public utility, and such books and accounts shall be open to inspection by any person appointed for that purpose by the council.

(2) Subsection 1 is subject to section 10 of The Department of Municipal Affairs Act. R.S.O. 1950, c. 320, s. 46.

4.7.—(1) The commission shall on or before the 1st day of April in each year or upon such other day as the council may direct, furnish to the council a statement of affairs of each public utility undertaking, including in respect of each undertaking,

(a) the number of customers supplied during the previous calendar year;

(b) a balance sheet of assets and liabilities, including the value of the physical property, the amount of the sinking fund and the amount of current assets, also the amount of outstanding debentures and of current liabilities;

(c) a statement of revenue and expenditure, including the amount received from customers and the amount of other revenue, if any, also the amount expended for operation and maintenance, improvements and extensions, and for salaries and other office and management expenses, and the amount paid or set aside for interest, principal and sinking fund on the debentures.

(2) The commission shall also furnish such information as may be required by the council at any time.

(3) The accounts of the commission shall be audited by the auditors of the corporation, and the commission and its officers shall furnish to the auditors such information and assistance as may be in their power to enable the audit to be made.

(4) The commission may, if it so desires, appoint auditors to audit the accounts of the commission, the expense to be borne by the utility. R.S.O. 1950, c. 320, s. 47.
48. A book wherein shall be recorded all the proceedings of the commission shall be kept and shall be open to inspection by any person appointed for that purpose by the council. R.S.O. 1950, c. 320, s. 48.

PART IV

ALL MUNICIPAL AND COMPANY PUBLIC UTILITIES

49. This Part applies to all municipal or other corporations owning or operating public utilities. R.S.O. 1950, c. 320, s. 49.

50.—(1) Any person authorized by the corporation for that purpose has free access, at all reasonable times, and upon reasonable notice given and request made, to all parts of every building or other premises to which any public utility is supplied for the purpose of inspecting or repairing, or of altering or disconnecting any service pipe, wire or rod, within or without the building, or for placing meters upon any service pipe or connection within or without the building as he may deem expedient and for that purpose or for the purpose of protecting or regulating the use of the meter, may set it or alter the position of it, or of any pipe, wire, rod, connection or tap, and may alter or disconnect any service pipe.

(2) The corporation may fix the price to be paid for the use of the meter, and the times when and the manner in which the price shall be payable, and may also recover the expense of such alterations, and such price and the expense of such alterations may be collected in the same manner as rents or rates for the supply of a public utility.

(3) Where a consumer discontinues the use of the public utility, or the corporation lawfully refuses to continue any longer to supply it, the officers and servants of the corporation may, at all reasonable times, enter the premises in or upon which the consumer was supplied with the public utility, for the purpose of cutting off the supply of the utility or of making an inspection from time to time to determine whether the utility has been or is being unlawfully used or for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes or other things being the property of the corporation in or upon the premises, and may remove the same therefrom, doing no unnecessary damage.

(4) Any corporation before supplying any public utility to any person or to any building or premises, or as a condition of continuing to supply the utility, may require any consumer to give reasonable security for the payment of the proper charges therefor or for carrying the public utility into the building or premises. R.S.O. 1950, c. 320, s. 50.
51. No property of the corporation used for or in connection with the supply of any public utility is liable to be seized for rent due to the landlord of any land or building wherein the property may be or under execution against the owner or occupant of the land or building. R.S.O. 1950, c. 320, s. 51.

52. Every person who, by act, default, neglect or omission occasions any loss, damage or injury to any public utility works, or to any plant, machinery, fitting or appurtenances thereof is liable to the corporation therefor. R.S.O. 1950, c. 320, s. 52.

53. Every person who willfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, service pipe, conduit, wire, rod or fitting belonging to the corporation, or willfully impairs or knowingly suffers the same to be altered or impaired, so that the meter indicates less than the actual amount of the public utility that passes through it, is guilty of an offence and on summary conviction is liable to a fine, to the use of the corporation, of not less than $4 and not more than $20 and for the expenses of repairing or replacing the meter, lamp, lustre, service pipe, conduit, wire, rod or fitting and double the value of the surplus public utility so consumed, all of which is recoverable under The Summary Convictions Act. R.S.O. 1950, c. 320, s. 53, amended.

54. Every person who willfully extinguishes any public lamp or light, or willfully removes, destroys, damages, fraudulently alters or in any way injures any pipe, conduit, wire, rod, pedestal, post, plug, lamp or other apparatus or thing belonging to the corporation is guilty of an offence and on summary conviction is liable to a fine, to the use of the corporation, of not less than $4 and not more than $20, and is also liable for all damages occasioned thereby, which are recoverable under The Summary Convictions Act. R.S.O. 1950, c. 320, s. 54, amended.

55. Where there is a sufficient supply of the public utility the corporation shall supply all buildings within the municipality situate upon land lying along the line of any supply pipe, wire or rod, upon the request in writing of the owner, occupant or other person in charge of any such building. R.S.O. 1950, c. 320, s. 55.

56.—(1) Main pipes or conduits for carrying or conveying any public utility underground in any highway, lane or public communication shall not be laid down therein by a municipal corporation or company within the distance of six
feet of the main pipes or conduits for carrying or conveying any public utility underground of any person without the consent of such person or the authority of the Ontario Municipal Board.

(2) The Board, upon the application of the corporation or company, and after notice to such person and hearing any objections that may be made, may authorize the main pipes or conduits to be laid down within such distance less than six feet as may be deemed proper, and all main pipes and conduits laid down in accordance with such authority shall be deemed to have been laid down under statutory authority and to be lawfully laid down, and may be maintained and operated by the corporation or company without its incurring any liability to such person in respect of the construction, maintenance or operation of them, except that provided for by subsection 5, any general or special statute or law to the contrary notwithstanding.

(3) Such authority may be granted subject to such conditions as the Board may deem necessary to prevent injury to the main pipes or conduits of such person, or to such person, his servants and workmen, in maintaining, repairing and operating them.

(4) The powers conferred by this section may be exercised from time to time as occasion may require.

(5) If any damage or injury is done to the main pipes or conduits of such person, or is occasioned in the maintenance of them, by reason of the main pipes or conduits of the corporation or company being laid down at a distance less than six feet from the main pipes or conduits of such person, no action lies in respect thereof, but the corporation or company doing such damage or injury shall make due compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of compensation, shall be determined by arbitration, and the provisions of The Municipal Act apply mutatis mutandis.

(6) The person claiming damages shall, within one month after the expiration of any calendar year in which he claims that any such damage or injury has been so done or occasioned, give notice in writing to the corporation of his claim and the particulars thereof, and upon failure to do so, the right to compensation in respect of the damage or injury done or occasioned during that calendar year is forever barred. R.S.O. 1950, c. 320, s. 56.
PART V
ALL COMPANY PUBLIC UTILITIES

57. This Part applies to every company incorporated for the purpose of supplying any public utility. R.S.O. 1950, c. 320, s. 58.

58.—(1) The company shall not exercise any of its powers within a municipality unless a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by The Municipal Franchises Act authorizing the company to exercise the power and the company when so authorized may exercise any of the powers of expropriation conferred on a municipal corporation by Parts I and II, if the power to expropriate is conferred on it by the letters patent incorporating the company or by supplementary letters patent.

(2) Subject to subsection 1, a company may conduct any of its pipes or carry any of its works through the land of any person lying within ten miles of the municipality for supplying which the company was incorporated.

(3) The powers of expropriation conferred on a company shall be exercised under and in accordance with The Railways Act. R.S.O. 1950, c. 320, s. 59.

59. If any person supplied with any public utility neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company, or any person acting under its authority, on giving forty-eight hours previous notice, may stop the supply from entering the premises of the person by cutting off the service pipes or by such other means as the company or its officers may deem proper, and the company may recover the rent or charge due up to that time, together with the expenses of cutting off the supply, notwithstanding any contract to furnish it for a longer time. R.S.O. 1950, c. 320, s. 60.

60. Where a natural gas company or natural gas transmitting company produces or transmits gas for export, the price or charge at which the gas shall be supplied is subject to regulation by the Lieutenant Governor in Council. R.S.O. 1950, c. 320, s. 61.

61. The provisions of sections 5, 6 and 7, except as to the manner of recovering charges and expenses, sections 9, 10 and 11 as to making agreements for a supply of water to a railway company or manufactory, and sections 13, 17, 18, 21, 22, 23 and 24, apply mutatis mutandis, to a company. R.S.O. 1950, c. 320, s. 62.
PART VI
ACQUIRING WORKS FROM COMPANIES

62.—(1) Where a by-law of the council of an urban municipality is passed with the assent of the electors entitled to vote on money by-laws declaring that it is expedient to acquire the works of a company incorporated on or after the 10th day of March, 1882 for the purpose of supplying within the municipality any public utility, the corporation may take possession of the works of the company and all property used in connection therewith for the purposes of supplying the public utility, whether the works and property, or any of them, are within or without the municipality, and shall pay therefor at a valuation to be determined by arbitration under The Municipal Act, subject to the provisions hereinafter mentioned.

(2) The arbitrators, in determining the amount to be paid for the works and property, shall first determine the actual value thereof, having regard to what they would cost if the works should be then constructed or the property then bought, making due allowance for deterioration, wear and tear, and all other proper allowances, and shall increase the amount so ascertained by 10 per cent thereof, which increased sum the arbitrators shall award as the amount to be paid by the corporation to the company, with interest from the date of their award.

(3) The amount shall be paid within six months from the date of the award, and the council shall take all requisite steps for providing the amount, and it is not necessary that a by-law passed for borrowing the amount shall receive the assent of the electors.

(4) The council may, without submitting the question to the vote of the electors, take the proceedings authorized by subsection 1 for determining the amount to be paid for the works and property, upon notice to the company that the corporation intends to acquire the works and property by arbitration under the provisions of this Act; but in such case any by-law for raising money to pay therefor requires the assent of the electors and until the by-law is finally passed, the corporation shall not, unless with the consent of the company, take possession of the works or property, and in the event of the by-law not being passed, the corporation shall indemnify the company for all costs it has been put to in and about the arbitration.

(5) The council and the company may agree as to the amount to be paid for the works and property or any of them.
(6) If the amount awarded or agreed to be paid to the company is not paid within six months after the time at which it is payable, the company may resume possession of its works and property, and all its rights in respect thereof thereupon revive.

(7) Any company incorporated before the 10th day of March, 1882, may, by by-law, declare that the company consents to be bound by the provisions of this section, and upon the passing of the by-law, this section applies to the company.

(8) A by-law may be passed under subsection 1, with respect to a company incorporated before the 10th day of March, 1882, if an agreement has been made between the company and the corporation under which the corporation has the right at any time, or at any time after a date thereby fixed, not being later than ten years from the date of the agreement, to acquire the works of the company and all property used in connection therewith for such purposes, at a valuation to be determined by arbitration under The Municipal Act.

(9) Nothing in this section affects the right of a municipal corporation to acquire the works and property of any public utility company by agreement with the company, or any right of acquisition that has been or may be secured by any such corporation independently of the provisions of this section.

R.S.O. 1950, c. 320, s. 63.

63.-(1) Subject to The Municipal Act, the corporation of any municipality that has power to construct such works, and in which the public utility works of a company are situate, may subscribe for shares or take stock in the company or may loan money to it on mortgage or otherwise or guarantee payment of money borrowed by it.

(2) The head of a municipality the corporation of which holds stock in any such company to the extent of one-tenth or more of the whole of the capital stock is ex officio a director of the company so long as the corporation continues to hold stock to that extent. R.S.O. 1950, c. 320, s. 64.

PART VII

COMMISSION FOR RAILWAYS AND TELEPHONES

64. The council of a municipal corporation that owns or operates or is about to establish,

(a) a railway, an electric railway, a street railway or an incline railway; or
(b) telephone systems or lines,

may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the work and the control and management of it to a commission, to be called "The Public Service Commission of the (naming the municipality)" or to an existing public utilities commission established under this Act, and if such a by-law is passed, the provisions of sections 35 and 38 to 48 apply mutatis mutandis to the commission to which the construction, control and management of the work are entrusted and to the work. R.S.O. 1950, c. 320, s. 65.

PART VIII

MISCELLANEOUS

65. Nothing in this Act affects sections 98 to 106 of The Power Commission Act, and they continue to apply to the cases to which they now apply. R.S.O. 1950, c. 320, s. 66.

66.—(1) After they have been submitted to and approved of by the Lieutenant Governor in Council, by-laws may be passed by the councils of all municipalities to prohibit the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen.

(2) If a company contravenes the provisions of any such by-law or after the passing of such by-law neglects or refuses to furnish a supply, sufficient for all public and private uses, of gas not containing sulphuretted hydrogen, any right, privilege or franchise that it possesses for the sale or distribution of natural or manufactured gas within the municipality ipso facto comes to an end and be determined. R.S.O. 1950, c. 320, s. 67 (1, 2).

(3) The corporation may apply to the Ontario Energy Board for a declaration that the company has contravened the provisions of the by-law, or that, after the passing of the by-law, it has neglected or refused to supply gas not containing sulphuretted hydrogen, as provided by subsection 2, and the Board on proof to its satisfaction that the company has done so may make the declaration, and the fact of such contravention or neglect or refusal is thereby conclusively established. R.S.O. 1950, c. 320, s. 67 (3); 1954, c. 81, s. 1 (1).

(4) After the passing of the by-law, the corporation also has the right to bring and maintain an action to restrain the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen. R.S.O. 1950, c. 320, s. 67 (4).
(5) Upon application by a municipal corporation to the Ontario Energy Board and upon proof of the sale or distribution of natural or manufactured gas containing sulphuretted hydrogen within the municipality after the passing of a by-law prohibiting the same, an order shall be made for the removal by the company so selling or distributing, of its conduits, mains, pipes and works from the municipality, but not including those used only for the purpose of transportation through the municipality to another municipality, and in default of such removal within the time limited by the order, then for the removal thereof by the corporation at the expense of the company. R.S.O. 1950, c. 320, s. 67 (5); 1954, c. 81, s. 1 (2).

(6) Upon such removal, the company shall restore the highways to as good a condition as they were in prior to the removal and in default thereof within the time limited by the order of the Ontario Energy Board, the corporation may do so at the expense of the company, and the expense incurred by the corporation in such removal and restoration is recoverable in a court of competent jurisdiction. R.S.O. 1950, c. 320, s. 67 (6); 1954, c. 81, s. 1 (3).

(7) This section applies to every company incorporated before or after the passing of this section and whether by special or general Act.

(8) No action lies or is maintainable by a company against any municipal corporation for or by reason or on account of the forfeiture under this section of any right, privilege or franchise of the company in the municipality. R.S.O. 1950, c. 320, s. 67 (7, 8).