

CHAPTER 130.

[H. B. 405.]

PUBLIC UTILITIES AND PUBLIC UTILITY DISTRICTS
- WHOLESALE ELECTRIC POWER.

AN ACT relating to public utilities and public utility districts; providing for wholesale electric service to them under supervision of the Department of Public Service; making certain provisions as to condemnation proceedings brought by them, and as to planning; declaring that this act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

Preamble.

SECTION 1. The legislature has found that the public utility districts of this state, including several which at the present moment are completing the acquisition of electrical properties and the sale of revenue bonds, have immediate need for this act, in order to effectuate timely arrangements for their wholesale power requirements, clarify their condemnation procedure, and plan their operations.

Rates on
wholesale
power.

SEC. 2. Whenever a decree of public use and necessity heretofore has been or hereafter shall be entered in condemnation proceedings conducted by a public utility district for the acquisition of electrical distribution properties, or whenever it has executed a contract for the purchase of such properties, the district may cause to be filed with the Department of Public Service a copy of such contract or a certified copy of the decree, together with a petition requesting that the Department cause a rate to be filed with it for the sale of wholesale power to the district. Thereupon the Department of Public Service shall order that a rate be filed with the Department forthwith for the sale of wholesale power to such district. The term "wholesale power" means electric energy sold for purposes of resale. The Department shall have authority to enter such order as to any public service corporation which owns or

operates the electrical distribution properties being condemned or purchased or as to any such corporation which owns or operates transmission facilities within a reasonable distance of such distribution properties and which engages in the business of selling wholesale power, pursuant to contract or otherwise. The rate filed shall be for the period of service specified by the district, or if the district does not specify a particular period, such rate shall apply from the commencement of service until the district terminates same by thirty days' written notice.

Upon reasonable notice, any such public service corporation shall furnish wholesale power to any public utility district owning or operating electrical distribution properties. Whenever a public service corporation shall furnish wholesale power to a district and the charge or rate therefor is reviewed by the Department, such reasonable rate as the Department finally may fix shall apply as to power thereafter furnished and as to that previously furnished under such charge or rate from the time that the complaint concerning the same shall have been filed by the Department or the district, as the case may be.

Power of
department
over whole-
sale rates.

SEC. 3. In any condemnation proceeding heretofore or hereafter instituted or conducted by a public utility district for the acquisition of properties, the district may serve upon the condemnee's attorneys of record and file with the court a notice of its intention to present a decree of appropriation together with a demand for a verified statement showing in reasonable detail the following information with respect to the operation of the properties since the date of verdict, if the case was tried by jury, or since the date of the judgment fixing compensation, if the case was tried by the court, namely: the cost of any improvements and betterments to the properties which were reasonably necessary and prudently

Require-
ments
of utilities
upon con-
demnation.

Information
required.

made; the gross income received from the properties, betterments and improvements; the actual reasonable expense, exclusive of depreciation, incurred in the operation thereof. If the condemnee fails to serve and file the statement within fifteen days after service of the demand therefor, it may be compelled to do so by contempt proceedings, and the time during which such proceedings are pending shall not be considered in computing the time within which the district may exercise its right of appropriation. After the statement is filed, the district may pay the amount of the verdict or judgment plus (1) accrued interest thereon less the net income before allowance for depreciation, and (2) the cost of such improvements and betterments, all as shown by the sworn statement, and concurrently obtain its decree of appropriation. The condemnee may retire from use after the verdict or judgment such items of the properties as may be reasonably necessary in the ordinary and usual course of operation thereof, in which case it shall show in its statement the reasonable value of such items retired, and the district may deduct such value from the sum otherwise payable by it. If the condemnee fails to file the statement within fifteen days after service of the demand therefor, the district at its option may pay the full amount of the judgment or verdict plus accrued interest thereon and concurrently obtain a decree of appropriation.

Accounting
after con-
demnation.

After payment has been made and the decree of appropriation entered as provided in this section, the district or the condemnee shall be entitled to an accounting in the condemnation proceedings to determine the true amount of each item required to be furnished in the above statement, and to payment of any balance found due in such accounting.

Whenever any such condemnation proceedings have been, or hereafter may be abandoned, no new

proceedings for the acquisition of the same or substantially similar properties shall be instituted until the expiration of one year from the date of such abandonment, but such proceedings may be instituted at any time thereafter.

Procedure upon abandonment.

SEC. 4. In order that the commissioners of a public utility district may be better able to plan for the marketing of power and for the development of resources pertaining thereto, they shall have the same powers as are vested in a Board of County Commissioners as provided in chapter 44, Laws of 1935 (sections 9322-2 to 9322-4, both inclusive, and 9322-10 to 9322-11 inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 776-1 to -7, 776-19 and -21), entitled: "An Act relating to city, town, county and regional planning and the creation, organization, duties and powers of planning commissions." For purposes of such act, the president of a public utility district shall have the powers of the chairman of the Board of County Commissioners, and a planning commission created hereunder shall have the same powers, enumerated in the above sections, with reference to a public utility district as a county planning commission has with reference to a county.

Additional powers of utility districts.

SEC. 5. If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged to be invalid.

Partial invalidity.

SEC. 6. This act is necessary for the support of state government and its existing public institutions and shall take effect immediately.

Effective immediately.

Passed the House March 1, 1945.

Passed the Senate March 6, 1945.

Approved by the Governor March 15, 1945.