

Salary.
Provisos.
Residence.

Disposed of fees, etc.

United States fees,
etc.

Deposit of fines and
costs.

Acceptance of cession.

June 30, 1916.

[S. 4476.]

[Public, No. 125.]

Mobile Bay, etc.,
Ala.
Time extended for
bridging, etc., by
Dauphin Island and
Harbor Company.
Vol. 37, p. 137, amend-
ed.

June 30, 1916.

[S. 5777.]

[Public, No. 126.]

Hawaii.
Act of legislature
granting electric power
franchise in Kauai
County, ratified, etc.

SEC. 9. That the commissioner provided for in this Act shall be paid an annual salary of \$1,500, payable quarterly: *Provided*, That the said commissioner shall reside within the exterior boundaries of said Mount Rainier National Park, at a place to be designated by the court making such appointment: *And provided further*, That all fees, costs, and expenses collected by the commissioner shall be disposed of as provided in section eleven of this Act.

SEC. 10. That all fees, costs, and expenses arising in cases under this Act and properly chargeable to the United States shall be certified, approved, and paid as are like fees, costs, and expenses in the courts of the United States.

SEC. 11. That all fines and costs imposed and collected shall be deposited by said commissioner of the United States, or the marshal of the United States collecting the same, with the clerk of the United States District Court for the Western District of Washington.

SEC. 12. That the Secretary of the Interior shall notify, in writing, the governor of the State of Washington of the passage and approval of this Act.

Approved, June 30; 1916.

CHAP. 198.—An Act Extending the time for the commencement and completion of the bridge or bridges authorized by an Act entitled "An Act to amend an Act to authorize the Dauphin Island Railway and Harbor Company, its successors or assigns, to construct and maintain a bridge or bridges, or viaducts, across the water between the mainland, at or near Cedar Point, and Dauphin Island, both Little and Big; also to dredge a channel from the deep waters of Mobile Bay into Dauphin Bay; also to construct and maintain docks and wharves along both Little and Big Dauphin Islands," approved June eighteenth, nineteen hundred and twelve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for the commencement and completion of the bridge or bridges authorized by the Act entitled "An Act to amend an Act to authorize the Dauphin Island Railway and Harbor Company, its successors or assigns, to construct and maintain a bridge or bridges, or viaducts across the water between the mainland, at or near Cedar Point, and Dauphin Island, both Little and Big; also to dredge a channel from the deep waters of Mobile Bay into Dauphin Bay; also to construct and maintain docks and wharves along both Little and Big Dauphin Islands," approved June eighteenth, nineteen hundred and twelve, is hereby extended to two years and four years, respectively, from and after the eighteenth day of September, nineteen hundred and sixteen.

Approved, June 30, 1916.

CHAP. 199.—An Act To ratify, approve, and confirm an act duly enacted by the Legislature of the Territory of Hawaii, as amended by Congress, relating to the granting of a franchise for the purpose of manufacturing, maintaining, distributing, and supplying of electric light and power within the Lihue district and the Koloa district, county of Kauai, Territory of Hawaii.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of the Legislature of the Territory of Hawaii entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric light and power within the Lihue district and the Koloa district, county of Kauai, Territory of Hawaii," approved by the governor of the Territory April thirtieth, nineteen hundred and thirteen, is hereby amended by Congress, and as thus amended is hereby ratified, approved, and confirmed, as follows:

"Act 153.

"An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric light and power within the Lihue district and the Koloa district, county of Kauai, Territory of Hawaii.

"Be it enacted by the Legislature of the Territory of Hawaii, SECTION

1. That Hans Isenberg, of Lihue, county of Kauai, Territory of Hawaii, his associates, successors, and assigns, or such corporation as he or they shall cause to be incorporated under the laws of the Territory of Hawaii (he and they being hereinafter referred to as the "association"), be, and hereby are, vested with the right, authority, and privilege for the term of fifty years from and after the date of the approval of this Act by the Congress of the United States to manufacture, sell, furnish, and supply electric light, electric current, or electric power in the Lihue district and the Koloa district, county of Kauai, Territory of Hawaii, for lighting the streets, roads, public or private buildings, or for motive power, or for any other purpose which they may deem advisable, and from time to time for said term of fifty years, for the purposes herein mentioned, to construct, maintain, and operate suitable poles, lines, wires, cables, lamps, lamp-posts, conductors, conduits, and such other appliances and appurtenances as may from time to time be necessary for the transmission, distribution, or supply of electricity to consumers thereof under, along, upon, and over the streets, sidewalks, roads, squares, bridges, alleys, and lanes in the Lihue district and the Koloa district, county of Kauai, Territory of Hawaii, and to connect, by means of the said line, wires, and conductors, any manufactory, private or public buildings, lamps, lamp-posts, or other structure or object with the place of supply.

Hans Isenberg.
Franchise granted,
for electric plant,
Kauai County.

"SEC. 2. That all poles, lines, wires, cables, lamps, lamp-posts, conductors, conduits, and other appliances constructed, maintained, or operated under, along, upon, or over the streets, sidewalks, roads, squares, bridges, alleys, and lanes in the said Lihue district and the said Koloa district shall be so constructed, maintained, and operated by the association as to not unnecessarily interfere with the use of such streets, sidewalks, roads, squares, bridges, alleys, and lanes by the public.

Maintenance, etc.

"SEC. 3. That said association, its representatives, successors, and assigns, shall be responsible for any damages either to person or property resulting from any act of negligence on its part which may occur by reason of the exercise of any of the privileges herein granted.

Damages, etc.

"SEC. 4. That if said association, its representatives, successors, and assigns, shall fail or refuse to do or perform or comply with any of the provisions of this Act or the laws of the Territory of Hawaii, and continues to refuse or fail to perform or comply therewith after reasonable notice given by the Public Utilities Commission of the Territory of Hawaii to comply therewith, said Public Utilities Commission of the Territory of Hawaii may, with the consent of the governor and of the attorney general, cause proceedings to be instituted before any appropriate tribunal to have the franchise hereby granted and all rights and privileges accruing hereunder forfeited and declared null and void, and in case of a forfeiture of this franchise the Territory of Hawaii, the county of Kauai, or any political subdivision thereof shall have the right to purchase all the property of the association within the said Lihue district and the said Koloa district at the value thereof, such value to be determined as provided in section sixteen hereof: *Provided*, That notice of such desire and intention to purchase is given to the association by the Territory of Hawaii or the county of Kauai or any political subdivision thereof within sixty days after the forfeiture of this franchise.

Forfeiture for violations, etc.

Proviso.
Purchase by Territory, etc.

Delivery of service.	"SEC. 5. That the association shall have the right to maintain, operate, and use electric meters or other means of measuring electric light, power, or current supply from time to time and to locate the same at such places as may be deemed necessary for its protection. That such association shall have the right to charge, receive, and collect from all consumers of electricity such reasonable prices as may from time to time be fixed and determined by the association, but such charge shall not at any time exceed 20 cents per kilowatt hour, or one thousand watt hours, nor exceed such rate or rates as may be fixed from time to time by the Public Utilities Commission of the Territory of Hawaii: <i>Provided, however,</i> That the association shall have the right to charge, receive, and collect from each consumer of electricity for light the sum of not exceeding \$2 per month, and from each consumer of electricity for power the sum of not exceeding \$1 per month for one-horsepower apparatus connected to the service of the association: <i>And provided further,</i> That should electricity be required of said association by the Territory of Hawaii, or the county of Kauai, or any successor of either, or of any political subdivision thereof, for public purposes, said association shall not charge therefor more than 10 cents per kilowatt hour, or one thousand watt hours: <i>And provided further,</i> That this franchise and the association holding the same shall be subject, as to reasonableness of rates, prices, and charges, and in all other respects, to the provisions of chapter one hundred and twenty-eight of the Revised Laws of Hawaii, nineteen hundred and fifteen, creating a public utilities commission, and all amendments thereof, for the regulation of the public utilities in said Territory; reserving, however, to said association the right of appeal to the Supreme Court of Hawaii from every order of said commission as provided in said chapter.
<i>Provisos.</i> Monthly charge.	
Price for Territorial use.	
Subject to public utilities commission.	
Connections, etc.	"SEC. 6. That said association shall have the right to charge consumers or applicants for the use of electricity for one-half of the cost and expenses of making connections between the company's main line and the premises where the electricity is to be used, such cost and expenses to include the price of all wire, poles, insulators, and other materials and labor necessary to be used in making such connections, the reasonableness of said charges upon the application of any party in interest to be subject to the approval of the public utilities commission: <i>Provided, however,</i> That the association shall not be required to make, construct, or maintain said connections as aforesaid or supply light or power unless the applicant or applicants for such light or power, if required, shall deposit in advance with the association a sum of money sufficient to pay one-half of the costs and expenses of making and constructing such connections and for current for a period of one month in advance.
<i>Proviso.</i> Deposit.	
Extensions.	"SEC. 7. That the association shall not be required to extend, construct, or maintain its main lines beyond a distance of three hundred feet unless there be an applicant for each three hundred feet of extension, or fraction thereof, and unless each applicant shall, in addition to the other requirements in this Act provided, agree to take, install, and maintain five forty-watt lamps or one horsepower of power apparatus for not less than one year.
Discontinuance of service.	"SEC. 8. That the association shall have the right to discontinue or cut off the supply of electricity to any consumer who shall refuse to pay the amount due for electricity supplied by said association within such reasonable time as said association may fix for the payment of the same, and such discontinuance of service or supply of electricity shall not be a bar to or prejudice the rights of the association in any remedy or remedies now or which may hereafter be authorized by law for the recovery and collection of the amount due.
County regulations, etc.	"SEC. 9. That the board of supervisors of the county of Kauai is hereby authorized to make and from time to time change, amend,

or add to reasonable rules regulating the placing of poles and wires, the insulation of wires and apparatus carrying electric current, and the maintenance in good repair of all poles, wires, and apparatus, and generally concerning the manufacture and supply of electricity which may be necessary or proper for the public safety and welfare. If at any time the association, after reasonable notice given to it in writing, shall fail to observe or execute the rules and regulations hereinabove provided for relative to the placing of poles and wires, the insulation of wires and apparatus carrying electric current, and the repair of all poles and appliances, the board of supervisors of the county of Kauai, after giving the association reasonable notice thereof in writing of its intention so to do, may proceed to remedy such repair, and the cost of such repairs or charges may be recovered from the association by the county of Kauai.

"SEC. 10. That the entire plant, corporation, books, and accounts of the association shall at all times be subject to the inspection of the Public Utilities Commission of the Territory of Hawaii and of the board of supervisors of the county of Kauai or other officer appointed by either of them for that purpose.

Inspection of books,
etc.

"SEC. 11. That the association shall, within one month after the expiration of each calendar year, file with the treasurer of the county of Kauai a detailed statement showing all of its receipts and expenditures during the preceding calendar year, and shall, at the time, pay to the treasurer of the county of Kauai, for and on behalf of said county, one-half of one per centum of the gross receipts of the association from all electric light or power furnished to consumers during the preceding year; and all its books, papers, records, and accounts shall at all reasonable times be open to inspection by the treasurer of said county, and his respective agents appointed for such purpose.

Yearly statements.

"SEC. 12. That said association shall have the right to acquire, hold, or take over, either by purchase or lease, property, both real, personal or mixed, and such other property as may be deemed necessary or essential for the proper conduct of its business. Said association and the directors thereof shall, however, not have the right to purchase franchises or property of whatever nature of, nor shares of stock in, nor bonds of, another company or corporation of like nature operating in the Lihue district and Koloa district, county of Kauai, Territory of Hawaii.

Property rights.

"SEC. 13. That the said association, whenever from time to time it shall deem it expedient in the furtherance of the objects of the association, shall have the power to borrow money and secure the payment thereof, with interest agreed upon, by mortgage of all or any part of its property and the franchise and privilege granted or obtained by virtue of this Act; or, if it be deemed advisable, bonds may be issued, secured by deed of trust of such property as aforesaid, not to exceed sixty per centum of the actual value thereof, together with all future acquired property, as well as the income and receipts of the property from whatever sources derived, and in such form and under such terms as said association may deem advisable:

Issue of bonds, etc.

Provided, That nothing in this section contained shall operate to prevent said association from obtaining the usual business credits or making promissory notes without security: *And provided further*, That the association shall not issue stock in excess of the amount paid to it in cash, nor shall issue bonds at less than ninety per centum of their par value; and the entire proceeds of its stock and bonds shall be applied to capital expenditures. No member of the association, or any assignee or successor of the same, and no stockholder or officer thereof shall become interested, directly or indirectly, in any contract made by the association, its assignees or successors, in the construction of any part of the works.

Provided.
Business loans.

Stock issue limited.

Commencement of operations, etc.

"SEC. 14. It is further provided that the right hereby granted shall cease and determine if operations hereunder are not commenced by beginning the construction of buildings or other works for manufacturing or supplying electric light and power, or by placing poles and wiring the same, or constructing conduits and laying wires therein in any of the streets, roads, or other places for the purpose of conducting electric light and power, within one year from and after the date of approval of this Act by the Congress of the United States, and also if sufficient works are not completed and in operation to supply electric light and power, and if electric light and power is not supplied within one year after such commencement.

Amendment reserved.

"SEC. 15. That this franchise may at any time be amended or repealed by the Congress of the United States or by the Legislature of the Territory of Hawaii, with the approval of the Congress of the United States, and the right, privileges, and powers by this Act conferred shall not be construed to be exclusive.

Purchase by Territory, etc.

"SEC. 16. That the Territory of Hawaii, the county of Kauai, or any political subdivision thereof, may at any time after the expiration of twenty years from the date of the passage of this Act by the Congress of the United States, and upon six months' notice in writing to the association, given pursuant to proper authority, when so authorized by the Legislature of the Territory of Hawaii, acquire by purchase all the property of the association, subject to the then existing charges thereon.

Determination of price.

"The amount to be paid to the association for such purchase shall be determined by a commission of three persons, one to be appointed by the association, or, in case it should fail to do so within thirty days after having been requested to do so by the purchaser, then by the chief justice of the Supreme Court of Hawaii, one by the purchaser, and the third by the two so appointed; or, in case they should fail to agree upon the third member within thirty days, then by said chief justice, any such action by the chief justice to be taken only after giving to each party notice and an opportunity to be heard; but such amount shall in no case exceed the actual cost or the actual value of the tangible property or the actual cost of reproducing or replacing it, less depreciation and less the charges thereon. The value of the franchise or good will or any other intangible element shall not be considered in determining the amount to be paid.

Appeal, etc.

"Either the association or the purchaser may appeal to the Supreme Court of Hawaii from the decision of such commission by filing a written notice of appeal with the commission within five days after the decision is rendered. It shall thereupon be the duty of the commission immediately to certify up to the supreme court the record of its proceedings, showing in such certificate the valuation claimed by the association, the valuation claimed by the purchaser, and the valuation as determined by the commission. Such certificate shall be accompanied by copies of all papers, documents, and evidence upon which the decision of the commission was based and a copy of such decision. Upon any such appeal the supreme court may in its behalf take or require further evidence to be introduced by either party.

Termination of franchise on sale.

"Within six months after the determination of the purchase price as aforesaid the same shall be paid to the association, and thereupon the franchise granted hereby shall cease and determine, and all the property of said association shall become the property of such purchaser without any further conveyance; but said association shall make all such further conveyances as may be desired by the purchaser and approved by said commission or said court on appeal."

Approved, June 30, 1916.