

*An Act to Confirm a
Certain Bylaw of the City
of Yorkton and a Certain
Agreement entered into
between the City of
Yorkton and Canadian
Utilities, Limited*

being a Private Act

Chapter 96 of the *Statutes of Saskatchewan, 1938*
(effective March 23, 1938).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

1938

CHAPTER 96

An Act to confirm a Certain Bylaw of the City of Yorkton and a Certain Agreement entered into between the City of Yorkton and Canadian Utilities, Limited

(Assented to March 23, 1938)

Preamble

WHEREAS on the 30th day of April, 1928, the City of Yorkton did, by an agreement in writing and under seal grant to MidWest Utilities Limited a special franchise exclusive, for a period of ten years and for such other periods as are provided in the said agreement for the purpose of conducting electricity for the supply of light, heat and power within the City of Yorkton, subject to the terms, reservations, covenants and conditions more particularly set forth in the said agreement; and

Whereas the said agreement was, by Chapter 89 of the Statutes of Saskatchewan, 1928-29, ratified, confirmed and validated; and

Whereas the name Mid-West Utilities Limited was changed to Canadian Utilities Limited under and by virtue of supplementary letters patent issued pursuant to *The Companies Act (Canada)*; and

Whereas on the 26th day of January, 1938, Bylaw No. 7-1938 was finally passed by the council of the City of Yorkton a copy of which bylaw forms schedule A to this Act and which said bylaw authorized and empowered the Mayor or Deputy Mayor and the City Clerk of the City of Yorkton to execute on behalf of the City of Yorkton an agreement between the City of Yorkton and Canadian Utilities Limited and to affix thereto the corporate seal of the said city; and

Whereas the said agreement, a copy of which forms schedule B to this Act was executed in duplicate on the 15th day of January, 1938; and

Whereas the City of Yorkton has presented a petition to the Legislature of the Province of Saskatchewan praying for the ratification and confirmation of the said Bylaw No. 7-1938 and the said agreement; and

Whereas it is expedient to grant the prayer of the said petition:

Now therefore His Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Bylaw and agreement ratified

1 Bylaw No. 7-1938 of the City of Yorkton which was finally passed by the municipal council of the said city on the 26th day of January, 1938 and the agreement which was executed by the said city and Canadian Utilities Limited on the 15th day of January, 1938, which bylaw and agreement are set forth in schedules A and B respectively hereto, are hereby ratified, confirmed and validated in all respects and the parties thereto are hereby authorized and required to carry out the terms, conditions and provisions thereof.

Retrospective

2 This Act shall be retrospective in so far as respects anything done or agreed to be done prior to the date when this Act comes into force.

1938, c.96, s.2.

Coming into force

3 This Act shall come into force on the date it is assented to.

1938. c.96, s.3

SCHEDULE A

BYLAW NUMBER 7 1938 OF THE CITY OF YORKTON

A Bylaw of the City of Yorkton to authorize the execution of an agreement between the city and Canadian Utilities, Limited.

Whereas it is the opinion of the council of the City of Yorkton that an extension of five years of the specific franchise granted to the Canadian Utilities, Limited, for the purpose of conducting electricity for the supply of light, heat and power, in the City of Yorkton on the terms and conditions contained in an agreement executed between the City of Yorkton and the Mid-West Utilities, Limited, and dated the 30th day of April, 1928, is for the promotion of the welfare of the City and its inhabitants;

And whereas it is deemed advisable that the city should enter into an agreement with the said Canadian Utilities, Limited, so extending the said special franchise but reserving unto the city the rights and privileges as in the said proposed agreement provided, a true copy of said proposed agreement being hereunto annexed and marked schedule A hereto.

Now therefore the municipal council of the City of Yorkton in council assembled, enacts as follows:

1. The said proposed agreement hereunto annexed and marked schedule A to this bylaw and which is hereby declared to be a part of this bylaw be and the same is hereby ratified and confirmed.

2. The Mayor or the Deputy Mayor and the City Clerk of the City of Yorkton be and are hereby authorized and empowered to sign the said agreement on behalf of the city and to affix thereto the corporate seal of the said city.

3. This bylaw shall come into operation on the date of the final passing thereof.

Introduced and read a first time this 26th day of January, 1938.

(Sgd.) D. McNeil, Deputy Mayor.

(Sgd.) H.M. Jackson, City Clerk.

Read a second time this 26th day of January, 1938.

(Sgd.) D. McNeil, Deputy Mayor.

(Sgd.) H.M. Jackson, City Clerk.

CITY OF YORKTON: AGREEMENT WITH
CANADIAN UTILITIES LIMITED

Read a third time and passed this 26th day of January, 1938.

(Sgd.) D. McNeil, Deputy Mayor.

(Sgd.) H.M. Jackson, City Clerk.

SCHEDULE B

THIS AGREEMENT made in duplicate this 15th day of January, in the Year of our Lord, One Thousand, Nine Hundred and Thirty-eight.

BETWEEN:

The City of Yorkton, a Municipal Corporation,
of the Province of Saskatchewan,
hereinafter called "the city"

— and —

Canadian Utilities, Limited, a body corporate with its Head Office at the City of Calgary in the Province of Alberta, formerly known as Mid-West Utilities, Limited, but having changed its name under and by virtue of Supplementary Letters Patent, hereinafter called "the company".

Whereas the city did by an agreement in writing and under seal dated the 30th day of April, A.D. 1928, grant to the company a special franchise, exclusive, for a period of ten years and for such further periods as are provided in the said agreement, for the purpose of conducting electricity for the supply of light, heat and power within the City of Yorkton, subject to the terms, reservations, covenants and conditions more particularly set forth in the said agreement;

And Whereas the said agreement provides that the city shall have the right at the expiration of the term thereby granted, subject to the proviso thereafter contained, or upon the termination of the said contract as therein provided, and at the expiry of each successive term of ten years thereof on giving six months' previous notice in writing to the company to take over and purchase from the company *inter alia* the equipment used in the transmission and distribution of electrical energy to the city and its inhabitants within the city; provided that any board of arbitration constituted as a result of the city giving such notice during the first ten years is to enquire whether and if it determines that the company has furnished an adequate and sufficient service and has effectively fulfilled and performed all other covenants on its part to be performed, it shall make an award accordingly and thereupon in view of the fact that certain of the debentures in the said agreement referred to will not then have been redeemed, the right of the city to take over the purchase as aforesaid shall be deferred for a period of five years and that the said agreement shall then be read and construed as if the original term thereof ended at the expiration of the said additional five years, and that the city may exercise its right to take over and purchase at the termination of such period and thereafter as in manner first in paragraph 21 of the said agreement provided;

And Whereas the city has, pursuant to the provisions of the said agreement, given to the company six months previous notice in writing to take over and purchase the equipment used in the transmission and distribution of electrical energy to the city and its inhabitants within the city, as in the said agreement provided and as set forth in the immediately preceding recital hereof;

And Whereas the city has, pursuant to the provisions of the said agreement, served notice on the company of alleged breaches of covenants under the said agreement and alleging in effect that the company have not effectively fulfilled and performed all the covenants on its part to be performed;

And Whereas the parties hereto are desirous of obviating the necessity of the holding of an arbitration at this time to ascertain whether or not the company have effectively fulfilled and performed all the covenants on its part to be performed;

And Whereas the parties are desirous of extending the period of the said franchise and of deferring the right of the city to purchase and take over the equipment used in the transmission and distribution for a period of five years subject however, to the city having the right to take over and purchase at the termination of such additional five years and thereafter as in the manner first in paragraph 21 of the said agreement provided.

WITNESSETH that the parties hereto mutually covenant and agree to and with each other as follows:

1. That notwithstanding that the city have pursuant to the provisions of the agreement entered into between the parties hereto, and dated the 30th day of April, A.D. 1928, given notice as in the said agreement provided of its intention to take over and purchase the equipment used by the company in the transmission and distribution of electrical energy to the city and its inhabitants within the city, the right of the city to take over and purchase the equipment used by the company in the transmission and distribution of electrical energy to the city and its inhabitants within the city shall be deferred for a period of five years and that the said agreement between the parties hereto and dated the 30th day of April, 1928, shall be read and construed as if the original term thereof ended at the expiration of the said additional period of five years herein provided for.
2. That the city shall have the right and may exercise its right to take over and purchase at the termination of such additional five year period provided for herein and thereafter as in the manner first in paragraph twenty-one of the said agreement provided.
3. That save as herein altered, varied, or modified, all the terms, provisions, provisos, covenants and agreements contained in the said agreement between the parties hereto and dated the 30th day of April, 1928, shall remain in full force and effect.
4. That save as aforesaid, there shall be reserved unto the parties hereto all rights, privileges, obligations, remedies and rights of action at law, or equity, which have arisen, accrued due or are accruing due to each or either of the parties hereto in and arising out of the said agreement between the parties and dated the 30th day of April, 1928.
5. That this agreement shall not become effective or be binding on the parties hereto until such time as the bylaw authorizing its execution, and this agreement are ratified, confirmed and validated by the Legislature of the Province of Saskatchewan.

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IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals authenticated by the signatures of their proper officers, the day and year first above written.

CITY OF YORKTON

(Sgd.) D. McNeil, Deputy Mayor.

(Sgd.) H.M. Jackson, City Clerk.

[Seal]

CANADIAN UTILITIES, LIMITED

(Sgd.) E.W. Bowness, President.

[Seal]

(Sgd.) D.K. Yorath, Secretary.