

No. 98]

BILL

[1958

An Act to authorize the Government of Manitoba and The Manitoba Hydro-Electric Board to enter into an Agreement with the Crown in Right of the Province of Ontario and The Hydro-Electric Power Commission of Ontario respecting the Diversion of Certain Waters into the Winnipeg River and the Power generated from those Waters.

[Assented to April 9th, 1958]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Short title

1. This Act may be cited as: “The Manitoba-Ontario Lake St. Joseph Diversion Agreement Authorization Act”.

Agreement authorized

2. The Government of Manitoba, represented therein by the President of the Executive Council, and The Manitoba Hydro-Electric Board may enter into an agreement, substantially in the form set out in the Schedule, with the Crown in right of the Province of Ontario and The Hydro-Electric Power Commission of Ontario respecting the diversion of certain waters into the Winnipeg River, and the power generated from those waters.

Commencement of Act

3. This Act comes into force on the day it receives royal assent.

SCHEDULE

AGREEMENT made this day of , 1958.

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA
(hereinafter called "Manitoba") herein represented by the Honourable Douglas Campbell,
President of the Executive Council of the Province of Manitoba,

OF THE FIRST PART,

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO
(hereinafter called "Ontario"), herein represented by the Honourable Clare E.
Mapledoram, Minister of Lands and Forests,

OF THE SECOND PART,

THE MANITOBA HYDRO-ELECTRIC BOARD, hereinafter called "the Board",

OF THE THIRD PART,

— and —

THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO, hereinafter called
"the Commission",

OF THE FOURTH PART.

WHEREAS the Commission wishes to store water in Lake St. Joseph in the District of Kenora, in the Province of Ontario, and to divert water therefrom by way of the Root River into Lac Seul in the said District of Kenora and thereby into the English and Winnipeg Rivers within the Province of Ontario for the purpose of increasing the energy production of generating stations of the Commission located on the English River, and the Commission proposes to construct, operate and maintain the works and structures necessary for such purpose:

AND WHEREAS Ontario is agreeable to the diversion by the Commission of the said water;

AND WHEREAS the Board wishes to utilize the said diverted water in the generation of electrical energy in generating stations located on the Winnipeg River within the Province of Manitoba;

AND WHEREAS the Board has agreed to make available to the Commission, under the terms and provisions hereinafter appearing, the quantities hereinafter referred to of energy deemed capable of being produced at generating stations on the Winnipeg River in the Province of Manitoba from or by the said diverted water;

AND WHEREAS subject to the terms and provisions hereinafter appearing, Manitoba is agreeable to accepting the said diverted water into the Winnipeg River within the province of Manitoba;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises the parties hereto agree as follows:

1. Ontario does hereby authorize and empower the Commission to divert water from Lake St. Joseph, in the District of Kenora, in the Province of Ontario, by way of the Root River into Lac Seul, in the said District of Kenora and thereby into the English and Winnipeg Rivers within the Province of Ontario, and to construct, operate and maintain all such works and structures (hereinafter called the "diversion works") necessary or required for the purposes thereof and does further authorize and empower the Commission to exercise and enjoy, in relation to the diversion of such water, all of its rights and powers under *The Power Commission Act*, R.S.O. 1950, Chapter 281.

2. Subject to the provisions of paragraph 5 hereof, Manitoba does hereby undertake and agree to accept the diverted water into the Winnipeg River within the Province of Manitoba and does hereby authorize and empower the Board to utilize the said diverted water for its purposes.

3. The Commission does hereby undertake and agree to construct, operate and maintain the diversion works and, subject to the provisions of *The Power Commission Act*, to pay the full cost of such construction, operation and maintenance.

4. Subject to the provisions of *The Lake of the Woods Control Board Act, 1922*, Statutes of Ontario 1922, Chapter 21, and of *The Lake of the Woods Control Board Act, 1921*, Statutes of Canada 1921, Chapter 10, in each case as amended or re-enacted from time to time, and of this agreement, the Commission does hereby undertake and agree to operate, maintain and control the diversion works in such manner as to secure severally and at all times the most dependable flow and the most advantageous and beneficial use of the diverted water for the purposes of the generation of power within the Provinces of Ontario and Manitoba.

5. In operating, maintaining and controlling the diversion works under this agreement, the Commission will exercise its best endeavour to ensure that water will not be diverted from Lake St. Joseph at such times or in such manner as will be likely to result in flows in the Winnipeg River in excess of Thirty-four Thousand (34,000) cubic feet per second at the Slave Falls Generating Station in Manitoba and whenever and for as long as flows in the Winnipeg River at said generating station shall exceed, or appear likely to exceed, Thirty-four Thousand (34,000) cubic feet per second, the Commission will cease or restrict such diversion, as the case may be, if, when and for so long as requested to do so by Manitoba or the Board.

6. It is understood and agreed that as between the Board and the Commission, the Commission shall be entitled to all of the energy produced within the Province of Ontario from or by the diverted water.

7. The Commission shall be entitled to receive from the Board, and the Board undertakes and agrees to deliver to the Commission, in the manner hereinafter provided, quantities of energy equivalent to one-half of the "total weekly productive energy" in each week as defined in Section C of Schedule "A" hereto, calculated in accordance with the provisions of this agreement and the principles set forth in said Schedule.

8. The Commission undertakes and agrees that it will pay to the Board, in the manner hereinafter provided, 1.4 mills per kilowatt-hour for all energy demanded by the Commission and delivered by the Board pursuant to this agreement. For the purpose only of calculating the appropriate payments, delivery shall be deemed to have been made at the 115 KV bus at Seven Sisters Generating Station.

9. The point of delivery to the Commission under this agreement of energy to which the Commission is entitled shall be at the boundary between the Provinces of Manitoba and Ontario and said energy shall be delivered by means of existing or future interconnecting transmission facilities between the systems of the Commission and of the Board. The energy delivered by the Board to the Commission under this agreement shall be measured and determined from readings of watt-hour meters or recording demand meters supplied, maintained and read by the Board or the Commission, having a demand interval of one hour. Such meters may be installed at any location convenient to the Board and to the Commission on the interconnecting transmission line or lines. An appropriate allowance shall be made in all measurements for line losses between the metering points and the intersection of the said interconnecting transmission line or lines with the said Interprovincial boundary.

10. Promptly after the beginning of each calendar month, the Board will render to the Commission a bill for the energy delivered under this agreement during the previous month. Such bills shall be paid within fifteen (15) days of the date upon which the same are received, and payment shall be made by cheque payable at par at Winnipeg, Manitoba.

11. The quantity of energy to which the Commission is entitled under this agreement in any week, calculated in accordance with the principles set out in said Schedule "A", shall normally be demanded by and delivered to the Commission within the week next ensuing such week of entitlement; provided that delivery may be delayed beyond such time at the request of the Commission or the Board if such request be approved by the non-requesting party. Subject to the foregoing, delivery of energy to the Commission will be made at such times as are suitable to the Commission and to the Board, it being understood that the Board shall not be obliged to deliver energy under this agreement during the period of the daily peak loads on the electrical system of the Board.

12. In producing energy from said diverted water or in delivering energy to the Commission under this agreement, the Board shall not be required to operate any equipment at loads in excess of those which it considers to be within safe limits or which in its opinion will result in undue shortening of the life of the equipment, nor shall the Board be required to construct additional facilities or to defer maintenance solely for the purpose of delivering energy to the Commission under this agreement.

13. For the purpose of facilitating the carrying out of the terms of this agreement as between the Commission and the Board, there is hereby established an Operating Committee consisting of two members, one of whom, or his alternate appointed hereunder, shall be the representative of the Board and the other of whom, or his alternate so appointed, shall be the representative of the Commission.

14. The Operating Committee is authorized on behalf of the Board and of the Commission respectively to do all acts and things necessary to carry out the provisions under this agreement respecting the control and diversion of water and the determination, delivery and measurement of energy to which the Commission is entitled, and for such purposes the Operating Committee shall have access at all reasonable times to the pertinent and relevant records and accounts of the Board and of the Commission, which shall each furnish to the Operating Committee all such relevant and pertinent information as may be necessary to enable the Committee to perform its duties.

15. All decisions of the Operating Committee in respect of matters within its jurisdiction shall be unanimous. In the event that the members of the Operating Committee fail to agree on any matter, the subject of disagreement shall be referred to the General Managers of the Board and of the Commission respectively for their decision. In the event that the said General Managers fail to

agree on such referred matter, the subject of disagreement shall be referred for decision to a consulting engineer or to a firm of consulting engineers to be selected by the General Managers, and the decision of such engineer or firm shall be final and binding on the Board and the Commission.

16. The Board hereby appoints Mr. C. G. Mills as its representative on the Operating Committee and Mr. V. W. Dick as his alternate. The Commission hereby appoints Mr. F. C. Lawson as its representative on the Operating Committee and Mr. W. G. Chandler as his alternate.

17. Each of the Board and the Commission may from time to time remove and replace any member of the Operating Committee or his alternate appointed by it and shall fill any vacancy promptly. Prompt notice in writing of removals and replacements under this paragraph will be given by the Board or by the Commission to the other.

18. Manitoba and the Board shall indemnify and save harmless Ontario and the Commission of, from and against any and all loss, costs and damages to which Ontario or the Commission shall be put or shall suffer arising or resulting in any manner whatsoever within the Province of Manitoba from the introduction into the Winnipeg River of the diverted water to the extent permitted by this agreement, and Ontario and the Commission shall indemnify and save harmless Manitoba and the Board of, from and against any and all loss, costs and damages to which Manitoba or the Board shall be put or shall suffer arising or resulting in any manner whatsoever within the Province of Ontario from the introduction into Lac Seul, the English River and the Winnipeg River of the diverted water as permitted by this agreement or the diversion of such water from Lake St. Joseph and its normal water courses.

19. The General Managers of the Board and the Commission, acting jointly, may from time to time in writing amend the provisions of Schedule "A" hereto, other than Section C thereof, and the parties hereto shall be bound by any such amendment.

20. This agreement shall take effect upon the completion by the Commission of the diversion works and notification thereof to the Board and shall continue in full force and effect unless and until terminated by Manitoba, by Ontario, by the Board or by the Commission by at least Four (4) years' notice given in writing and by registered mail addressed to the other parties to this agreement. Upon termination of this agreement, the Commission will cease the diversion of water from Lake St. Joseph into Lac Seul.

21. This agreement shall enure to the benefit of and be binding upon the parties hereto, their and each of their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed.

*President of the Executive Council of the Province of
Manitoba.*

Minister of Lands and Forests.

THE MANITOBA HYDRO-ELECTRIC BOARD:

Chairman.

Secretary.

THE HYDRO-ELECTRIC POWER COMMISSION
OF ONTARIO:

Chairman.

Secretary.

Schedule "A"

General principles for determination of the share of The Hydro-Electric Power Commission of Ontario of energy deemed capable of being generated at the generating stations on the Winnipeg River in Manitoba from water diverted from Lake St. Joseph.

Section A — Measurements

To be measured continuously:

- (1) Discharge from Lake St. Joseph to Lac Seul.
- (2) Discharge from Lac Seul to English River.
- (3) Discharge at Manitou Falls Generating Station.
- (4) Discharge at Caribou Falls Generating Station.

Each of the above shall be averaged for weekly periods.

To be measured at the end of each week:

- (5) The elevation of the water level in Lac Seul.
- (6) The elevation of the water level in Manitou Falls forebay.
- (7) The elevation of the water level in the Caribou Falls forebay.

Section B — Adjusted Diverted Water

The adjusted diverted water in each week is water diverted from Lake St. Joseph in that week adjusted for a portion that is to be stored or a portion previously stored in Lac Seul and/or the forebays of the Commission's Manitou Falls and Caribou Falls generating stations, allowing for appropriate time lag.

Section C — Total Weekly Productive Energy

The weekly productive energy at each generating station on the Winnipeg River in Manitoba is the difference between the amount of energy which could be produced at that station in a given week from the total river flow in that week (with the equipment currently available at that station) and the amount of energy which could be produced at the same station in that week from the total river flow in that week less the adjusted diverted water in that week. The total weekly productive energy is the sum of the above in the same week for the several stations on the Winnipeg River in the Province of Manitoba.

Section D — Energy Delivered to the Commission

The one-half of the total weekly productive energy to which the Commission is entitled at the Interprovincial boundary is to be reduced by an appropriate allowance for line losses between the Interprovincial boundary and the 115 KV bus in Seven Sisters Generating Station.

Section E — Operating Committee

The Operating Committee is authorized to make the detailed calculations required to carry out the general principles described above, which calculations are to be made in accordance with methods to be set out fully in an Operating Committee Standard Practice.

NOTES:

- 1) The format of this copy is similar to the version printed by: by R.S. Evans, Printer to Her Most Excellent Majesty, Winnipeg, 1958.
- 2) This Act was re-enacted, with no substantive changes. See RSM 1990, c. 245.
- 3) For the Ontario equivalent, see “The Manitoba-Ontario Lake St. Joseph Diversion Agreement Authorization Act, 1958” (Bill No. 144, 4th Session, 25th Legislature, Ontario; 6-7 Elizabeth II, 1958; assented to September 24, 1958.)