

PUBLIC UTILITIES - HOLDING OF PERMITS
Act of Jun. 14, 1923, P.L. 700, No. 293
AN ACT

Cl. 32

Authorizing the condemnation and appropriation of lands, waters, and other property by public service companies holding limited power permits and limited water supply permits granted by the Water Supply Commission of Pennsylvania, and providing a method for the assessment of damages arising from such appropriation.

Section 1. Be it enacted, &c., That where used in this act singular words shall be construed as including the plural, masculine words shall be construed as including the feminine and neuter, and the following terms shall have the following meanings respectively designated for each:

The term "commission" means the Water Supply Commission of Pennsylvania.

The term "dam" means a dam, wall, wing wall, wharf, embankment, abutment, projection, or similar analogous structure, or any other obstruction whatever in, along, across, or projection into any stream or body of water wholly or partly within, or forming part of the boundary of, this Commonwealth, except the tidal waters of the Delaware River and of its navigable tributaries.

The term "dam to develop water power" means a dam for the purpose of developing water power only, or a dam for said purpose and any other purpose.

The term "dam to supply water for steam power" means a dam for the main purpose of storing, cooling, diverting, and using, or any of them, water for steam raising or steam condensation, or both, in the generation of electric energy for use in public service, which is not a dam to develop water power as hereinbefore defined.

The term "water supply dam" means a dam for the purpose of supplying water, which is not a dam to develop water power nor a dam to supply water for steam power as hereinbefore defined.

The term "power dam" includes dams to develop water power and dams to supply water for steam power.

The term "change in stream to develop water power" means any change in or diminution of the course, current, or cross-section of any stream or body of water for the sole purpose of developing water power, or for said purpose and any other purpose, whether the dam or other means effecting the change be within or without the Commonwealth of Pennsylvania.

The term "change in stream to supply water for steam power" means any such change or diminution for the main purpose of storing, cooling, diverting, and using, or any of them, water for steam raising or steam condensation, or both, in the generation of electric energy for use in public service, which is not a change in stream to develop water power as hereinbefore defined, whether the dam or other means effecting the change be within or without the Commonwealth of Pennsylvania.

The term "change in stream for water supply" means any such change or diminution for the purpose of supplying water, which is not a change in stream to develop water power, nor a change in stream to supply water for steam power, as hereinbefore defined, whether the dam or other means effecting the change be within or without the Commonwealth of Pennsylvania.

The term "change in stream to develop power" includes changes in stream to develop water power and changes in stream to supply water for steam power.

The term "power project" means a complete unit of improvement or development for the procuring or supply, or both, of water power, or the procuring or supply, or both, of light, heat, and power, or any of them, by electricity, consisting of a power dam or change in stream to develop power, or both, for which a limited power permit at any time is being sought or shall have been granted, a power house, all water conduits, dams and appurtenant works which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power from the power house to the point of junction with the distribution system or with an interconnected primary transmission system, all miscellaneous structures used and useful in connection with such unit, or any part thereof, and all water rights, rights of way, ditches, dams, reservoirs, lands or interests in lands, the use and occupancy of which are necessary or appropriate in the construction, maintenance, and operation of such unit.

The term "water supply project" means a complete unit of improvement or development for the procuring or supply, or both, of water, which is not a power project as hereinbefore defined, consisting of a water supply dam or change in stream for water supply, or both, for which a limited water supply permit at any time is being sought or shall have been granted, a reservoir, the dam and other works appurtenant thereto, and all primary water conduits leading immediately therefrom to the point of junction with the distribution system or with an interconnected primary water conduit, and all water rights, rights of way, ditches, dams, reservoirs, and lands or interests in lands, the use and occupancy of which is necessary or appropriate in the construction, maintenance, and operation of such unit.

The term "permittee" means the holder of a limited power permit or of a limited water supply permit, and his heirs, successors, and assigns.

The term "limited power permit" means a permit for a power dam or for a change in stream to develop power, or both, hereafter granted by the commission.

The term "limited water supply permit" means a permit for a water supply dam or for a change in stream for water supply hereafter granted by the commission.

Section 2. Any public service company holding a limited power permit or a limited water supply permit, granted on behalf of a power project or a water supply project for use in public service, shall have the right and power to appropriate and condemn, overflow, submerge, occupy, and use any street, road, lane, alley, turnpike, highway, bridge, electric railroad, or steam railroad, whether publicly or privately owned, which the

commission shall find to be necessary for the construction, maintenance, or operation of the power project or water supply project in behalf of which such permit was granted: Provided, That such permittee shall cause the same, and all structures of other public service companies located thereon, to be reconstructed, at his own proper expense, on such location and in such manner and to such extent as the commission may require, or shall reimburse such other public service company for the reasonable cost of such relocation and reconstruction, and such permittee may condemn and appropriate property which the commission shall find to be necessary for such relocation and reconstruction.

Section 3. Any public service company holding a limited power permit or a limited water supply permit, granted on behalf of a power project or a water supply project for use in public service, shall have the right and power to condemn and appropriate any lands, waters, and other property and rights, as to which the said commission, after due notice and public hearing, shall have found that the appropriation of the same is required by the present and future interests of the Commonwealth for the construction, maintenance, or operation of the project in behalf of which such permit is granted, and is not incompatible with the public interests of the region in the vicinity of such project.

Section 4. All damages arising from the exercise of the right and power of condemnation conferred by section two and three of this act shall be ascertained, recovered, and paid as provided by the forty-first section of the act, approved April twenty-ninth, one thousand eight hundred and seventy-four (Pamphlet Laws, seventy-three), and the amendments and supplements thereto.

Section 5. None of the rights and powers conferred by this act shall be so used as to permit the utilization of any system of distribution, acquired, constructed, erected, used, or operated through the power of condemnation or appropriation conferred by this act, to supply, or commence to supply, within the limits of any city, borough, township, or district, in which, at the time of said commencement or proposed commencement, a company incorporated for the supply of light, heat, and power, or any of them, to the public by electricity is lawfully supplying light, heat, and power by electricity, without first securing a certificate of public convenience from the Public Service Commission of the Commonwealth of Pennsylvania authorizing such use within such limits. Nor shall this act be construed as impairing or limiting any right or power of eminent domain otherwise conferred by law.