



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

*License file copy  
52-19702-01*

May 1, 1991

MEMORANDUM TO: Diane B. Dandois, Chief  
License Fee and Debt Collection Branch  
Division of Accounting and Finance  
Office of the Controller

FROM: David J. Futoma, Attorney  
Rulemaking and Fuel Cycle  
Office of the General Counsel

SUBJECT: FEE EXEMPTION REQUEST, PUERTO RICO ELECTRIC  
POWER AUTHORITY

This legal memorandum responds to your request for an interpretation as to whether the fee exemption in 10 CFR 170.11(a)(9) applies to the routine inspection fee assessed under 10 CFR 170.31 for Materials License 52-19702-01 issued to the Puerto Rico Electric Power Authority (PREPA). Upon examination of the language of section 170.11(a)(9), other NRC regulations, PREPA's enabling legislation, and the Code of Puerto Rico, it is clear that the fee exemption applies to the PREPA. The reasons for this conclusion are discussed below.

Section 170.11(a)(9) exempts "an agency of a State or any political subdivision thereof," from the payment of inspection fees for licenses issued for possession and use of byproduct, source, and special nuclear material. Although "State" is undefined by the Independent Offices Appropriation Act of 1952 (31 USC 9701), the underlying statutory authority for Part 170, the Atomic Energy Act of 1954, as amended, 42 USC 2011 et seq., includes Puerto Rico within the ambit of the "United States" in section 11bb. In addition, the Commission has defined "State" in Part 150, which deals with Agreement States, to include Puerto Rico, see section 150.3(k). Thus, in the absence of contrary language or intent, Puerto Rico should be considered a "State" for purposes of Part 170 regulations, to be consistent with the Atomic Energy Act and NRC regulatory definitions of "State."

The PREPA was created pursuant to the 1979 amendments to the Puerto Rico Water Resources Authority Act of 1941 (the "Act"), which added some provisions and changed the name in the original Act, Puerto Rico Water Resources Authority (PRWRA), to Puerto Rico Electric Power Authority, Title 22, Chapter 11, Sections 191-217. Sections 193 and 194 indicate that although the PREPA is a governmental instrumentality, it has a legal existence and personality separate from that of the Government. The PREPA, however, is not referred to as an "agency" in the Act.

The Commission, in its regulations, appears to have contemplated that the meaning for "agency" in section 170.11(a)(9) would be defined by individual State law. The term "State agency" is left undefined, while the definition for "Government agency," which appears throughout 10 CFR, is explicitly defined to include:

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any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.<sup>1</sup>

If the NRC had intended to define State agencies, it could have done so as well. Thus, States presumably retain the power to define "agency" as they see fit.

The Puerto Rico Code defines "agency" broadly to include "any agency, authority, company, service, bureau, division, office, commission, board, instrumentality, public corporation," etc. 3 L.P.R.A. Section 1.<sup>2</sup> Coincidentally, this definition is nearly identical in scope with the definition of "Government agency" in the NRC regulations. Thus, under the statutory law of the Commonwealth of Puerto Rico, the term "agency" would include a public corporation such as the PREPA.

In conclusion, although the PREPA was created by the Commonwealth of Puerto Rico as a public corporation to function independently of the Commonwealth, under the Puerto Rico Code, the term "agency" includes "public corporations." As such, the PREPA is exempt from fees under 10 CFR Part 170, based on 170.11(a)(9).<sup>3</sup> Feel free to contact me if you have any questions based on this legal analysis.

*David J. Futoma*

David J. Futoma, Attorney  
Rulemaking and Fuel Cycle Division  
Office of the General Counsel

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<sup>1</sup> See e.g., 10 CFR Sections 20.3(6), 30.4, 40.4, 150.3(e).

<sup>2</sup> See also, 1 L.P.R.A. Section 158, 3 L.P.R.A. Section 1553, etc.

<sup>3</sup> As a practical matter, if the proposed revisions to Part 170 ( see, 56 FR 14870, April 12, 1991) to implement 100% cost recovery become final, the exemption provision 170.11(a)(9) will no longer exist.

MAR 26 1991

MEMORANDUM TO: Robert Fonner  
Special Counsel  
Fuel Cycle and Safeguards Regulation  
Office of the General Counsel

FROM: Diane B. Dandois, Chief  
License Fee and Debt Collection Branch  
Division of Accounting and Finance  
Office of the Controller

SUBJECT: FEE EXEMPTION REQUEST, PUERTO RICO ELECTRIC  
POWER AUTHORITY

Attached is a copy of Puerto Rico Electric Power Authority's January 31, 1991 letter (and enclosures) requesting an exemption under §170.11 (a)(9) for License 52-19702-01. In reviewing the documentation submitted by the licensee, we note that the Authority is "a public corporation and governmental instrumentality". We would appreciate your legal opinion as to whether or not the exemption in §170.11 (a)(9) applies in this case.

Approved by  
Diane B. Dandois

Diane B. Dandois, Chief  
License Fee & Debt Collection Branch  
Division of Accounting and Finance  
Office of the Controller

Enclosures:

Puerto Rico Electric Power Authority  
1/31/91 Letter & enclosures

DISTRIBUTION:

10 CFR 170 EXEMPTION FILE - FY-91 w/enc.  
GJackson, LFDCB w/o enc.  
DBDandois, LFDCB " "  
LFDCB R/F (2) " "  
DAF R/F " "  
DW/GJ2/Puerto Rico

OFFICE: OC/LFDCB OC/LFDCB  
SURNAME: GJackson:as DBDandois EK BLACK  
DATE: 3/26 /91 3/ /91 3/26/91

MAR 26 1991

Puerto Rico Electric Power Authority  
ATTN: Mr. Hector M. Alejandro  
Head, Environmental Protection  
and Quality Assurance Division  
G.P.O. Box 4267  
San Juan, Puerto Rico 00936-4267

Dear Mr. Alejandro,

This is to acknowledge receipt of your January 31, 1991 letter requesting an exemption from fees for Materials License 52-19702-01.

The information you submitted is being reviewed by the legal staff in the Office of the General Counsel. We will respond to your January 31, 1991 letter as soon as they have provided legal guidance to us. At that time we will notify you whether or not payment of Invoice 0550R is due.

Sincerely,

Signed by  
Glenda Jackson

Glenda Jackson, Chief  
License Fee and Debt Collection Branch  
Division of Accounting and Finance  
Office of the Controller

DISTRIBUTION:  
TO CFR 170 EXEMPTION FILE - FY-91  
GJackson, LFDCB  
DBDandois, LFDCB  
LFDCB R/F (2)  
DAF R/F  
DW/GJ2/Puerto Rico

OFFICE: OC/LFDCB      OC/LFDCB  
SURNAME: GJackson:as      DBDandois  
DATE: 3/15/91      3/15/91

## PUERTO RICO ELECTRIC POWER AUTHORITY

San Juan, Puerto Rico

Cable Address  
PREPAG.P.O. Box 4267  
San Juan, Puerto Rico 00936-4267

January 31, 1991

U.S. Nuclear Regulatory Commission  
License Fee and Debt Collection Branch  
Division of Accounting and Finance  
Office of the Controller  
Washington, DC 20555

Attention: Glenda Jackson

Dear Sir or Madam:

We refer to your invoice number 0550R related to a routine inspection to our Pollution Control Laboratory on February 5, 1990. Copy of the invoice is included.

Our agency hereby requests before the Nuclear Regulatory Commission an exemption for Inspection Fees, under 10CFR, Part 170.11(S)(3).

The basis for claiming this exemption is that the Puerto Rico Electric Power Authority (PREPA), formerly the Puerto Rico Water Resources Authority, was created in 1941 as a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico. As such, the power generated, transmitted, and distributed by our corporation is sold directly or indirectly to the public without profit.

We are including a copy of the Puerto Rico Water Resources Authority Act 83 of May 2, 1941, as amended, as a relevant evidence document that PREPA is a government agency.

If you have any questions regarding our request, please do not hesitate to contact us.

Cordially,

Héctor M. Alejandro  
Head, Environmental Protection  
and Quality Assurance Division

Enclosures

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
INSPECTION FEE INVOICE  
10 CFR 170.31

2102X00000000

Invoice Number  
-----  
0550R

Invoice Date  
-----  
12/26/90

Licensee Name and Address  
-----

PUERTO RICO ELECTRIC POWER AUTH.  
G.P.O. BOX 4267  
SAN JUAN, PR 00936  
Attn: HECTOR ALEJANDRO, ENVIF, PROT. & O. A

License Number	Date of Inspection	Inspection Report No.	Lic. Fee Category	Code	Amount Due
----- -19702-01	----- 02/05/90	----- 90-01	----- CP	AA905 INS-R	----- \$ 530

TOTAL FEE THIS BILLING \$ 530

TERMS AND CONDITIONS ARE ATTACHED

MAKE CHECKS PAYABLE TO:  
-----

U.S. NUCLEAR REGULATORY COMMISSION  
OFFICE OF THE CONTROLLER  
DIVISION OF ACCOUNTING AND FINANCE  
WASHINGTON D.C. 20555

RECEIVED

Licensing & Environmental  
Surveillance Dept.

1998 RECEIVED  
NRC  
DEC 2 1990

# VOUCHER COVER SHEET

Tax Payment:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	
1	ALBERTO RIVERO ELECTRIC POWER AUTHORITY																																		
2	ATTN MR HECTOR ALBA ALEJANDRO																																		
3	C. P. O. BOX 4267																																		
4																																			
5	CITY OF SAN JUAN																	S. T. A. I. E. R. A. Z. I. I. P. 00936-4267																	
6	D. I. C. 152-1917012-2011 WAS PROVIDED WITH FCC EXEMPT																																		
7																																			

ACCOUNT NO: AA905 APP  
AA905 REN  
AA905 INS CD NO: \_\_\_\_\_

FEE CATEGORY 3P CONTROL NO: \_\_\_\_\_

DATE RECEIVED: 4/3/81, 5/27/80, 2/83

CHECK AMOUNT: \$110; \$120; \$390

AMOUNT RETAINED: - 0 -

AMOUNT REFUNDED: \$620

COMMENTS: \_\_\_\_\_

31X6875

PURCHASE ORDER	
ALLOTMENT FUND CODE	
B&R NUMBER	
FIN	
FEE RETENTION	
DISCOUNT	
AMOUNT PAID	
PARTIAL	FINAL

SIGNED: M. Resina

DATE: 11/12/81

## PUERTO RICO ELECTRIC POWER AUTHORITY

San Juan, Puerto Rico

Cable Address  
PREPAG.P.O. Box 4267  
San Juan, Puerto Rico 00936-4267

January 31, 1991

U.S. Nuclear Regulatory Commission  
License Fee and Debt Collection Branch  
Division of Accounting and Finance  
Office of the Controller  
Washington, DC 20555

**Attention: Glenda Jackson**

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Our agency hereby requests before the Nuclear Regulatory Commission an exemption for Inspection Fees, under 10CFR, Part 170.11(5)(9).

The basis for claiming this exemption is that the Puerto Rico Electric Power Authority (PREPA), formerly the Puerto Rico Water Resources Authority, was created in 1941 as a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico. As such, the power generated, transmitted, and distributed by our corporation is sold directly or indirectly to the public without profit.

We are including a copy of the Puerto Rico Water Resources Authority Act 83 of May 2, 1941, as amended, as a relevant evidence document that PREPA is a government agency.

If you have any questions regarding our request, please do not hesitate to contact us.

Cordially,

Héctor M. Alejandro  
Head, Environmental Protection  
and Quality Assurance Division

Enclosures



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
INSPECTION FEE INVOICE  
10 CFR 170.31

*2102261000*

Invoice Number  
-----  
0550R

Invoice Date  
-----  
12/26/90

Licensee Name and Address  
-----

PUERTO RICO ELECTRIC POWER AUTH.  
G.P.O. BOX 4267  
SAN JUAN, PR 00936  
Attn: HECTOR ALEJANDRO, ENVIR. PROT. & O. A

License Number	Date of Inspection	Inspection Report No.	Lic. Fee Category	Code	Amount Due
----- -19702-01	----- 02/05/90	----- 90-01	----- IF	AA905 ----- INS-R	----- \$ 530

TOTAL FEE THIS BILLING \$ 530

TERMS AND CONDITIONS ARE ATTACHED

MAKE CHECKS PAYABLE TO:  
-----

U.S. NUCLEAR REGULATORY COMMISSION  
OFFICE OF THE CONTROLLER  
DIVISION OF ACCOUNTING AND FINANCE  
WASHINGTON D.C. 20555

RECEIVED

Licensing & Environmental  
Surveillance Dept.

1998 RECEIVED  
PRRFA  
2 1990

PRWRA ACT 83 OF MAY 2, 1941  
AS AMENDED

*Chapter 11. Puerto Rico Water Resources Authority*

SECTION ANALYSIS

191. Short title: Puerto Rico Water Resources Authority Act.
192. Definitions.
193. Creation and composition of Authority.
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196. Powers of the Authority.
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198. Transfer of System of the Utilization of the Water Resources.
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208. Remedies of bondholders.
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- 223. — Planning of projects.
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- 227e. Acceleration of rural electrification program.
- 228. Hydroelectric System of Puerto Rico Public Irrigation Service, South Coast, conveyed to Puerto Rico Water Resources Authority — Statement of motives.
- 229. — Conveyance and integration of Hydroelectric System; protection of irrigation rights.
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- 237. — Rural electrification projects.
- 238. Exclusion of land from South Coast and Isabela Irrigation Districts.

§ 191. Short title: Puerto Rico Water Resources Authority Act  
 Sections 191-217 of this title may be cited as the "Puerto Rico Water Resources Authority Act." — May 2, 1941, No. 83, p. 684, § 1; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

#### HISTORY

Amendments — 1942. The 1942 Act amended entire Act May 2, 1941, No. 83, consisting of the title and sections 1-28.

**Separability of provisions.** Section 28 of Act May 2, 1941, No. 83, as amended Apr. 8, 1942, No. 19, § 1, provided: "If any provisions of this Act or the application of such provisions to any person or circumstance shall be held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it shall have been held invalid shall not be affected thereby."

**Prior law.** The property, etc., of the "System of Utilization of the Water Resources" was transferred to the Puerto Rico Water Resources Authority by sections 198-201 of this title. As defined in section 192(g) of this title, this "System of Utilization of the Water Resources" consisted of all the works, property, etc., under the provisions of the following prior acts and joint resolutions:

July 28, 1925, No. 60, p. 326, provided for development of water resources. This act was repealed by Apr. 29, 1927, J.R. No. 36, cited below.

Apr. 29, 1927, J.R. No. 36, p. 344, as amended Apr. 25, 1930, No. 36, p. 296, and reenacted in the form of an act by Act May 6, 1938, No. 93, p. 203. This enactment was entitled "Act for the Development of the Water Resources". It created a "Special Fund for the Development and Use of the Water Power", levied a temporary property tax, and provided generally for the development of water power, construction of generating plants, transmission lines, etc.

Apr. 6, 1931, No. 7, p. 144, as amended July 12, 1932, No. 8, p. 38, authorized a bond issue for the construction of the Toro Negro Hydroelectric Project, and repealed Act Apr. 22, 1930, No. 23, p. 244, on the same subject.

Apr. 8, 1931, J.R. No. 5, p. 890, ratified a temporary loan until the sale of bonds authorized under Act Apr. 6, 1931, No. 7, cited above.

Mar. 29, 1935, J.R. No. 7, p. 348, as ratified and reenacted May 6, 1938, No. 93, p. 216, authorized extension of transmission lines to the Capital of Puerto Rico.

Apr. 17, 1935, J.R. No. 27, p. 416, authorized extension of transmission lines to Ponce and Adjuntas.

Aug. 6, 1935, No. 41, p. 496, authorizing bonds for development of water resources, was repealed by Act Apr. 28, 1949, No. 137, p. 354. This 1935 act repealed Act Oct. 26, 1932, No. 6, p. 140.

Sept. 22, 1936, No. 1, p. 113, the Insular Government Revenue Bond Act of 1936, provided funds for acquisition of the Ponce Electric Company.

May 6, 1938, No. 94, p. 211, authorizing bonds for purchase of the Río Blanco Hydroelectric Plant, was repealed by Act Apr. 28, 1949, No. 137, p. 354. Prior provisions concerning this plant were found in June 29, 1929, J.R. No. 11, p. 52.

May 11, 1939, No. 148, p. 714, the Insular Government Revenue Bond Act of 1939, provided funds for acquisition of the Puerto Rico Railway Light and Power Company.

**Additional provisions.** June 17, 1939, No. 21, p. 80, provided for construction of the Garzas Project.

May 1, 1941, No. 78, p. 672, provided for advancement of funds by the Treasurer of Puerto Rico for extensions and improvements generally.

May 6, 1941, No. 111, p. 790, as amended May 14, 1943, No. 153, p. 484, authorized bonds for various projects.

May 14, 1947, No. 440, p. 914, authorized bonds for improvements and extensions to the reservoir of the Jacaguas River known as "Presa y Lago de Guayabal".

**Collections under Act April 29, 1927.** Act April 20, 1961, No. 2, § 1, eff. April 20, 1961, provided: "The Secretary of the Treasury is hereby authorized and directed to cover into the General Fund of the Commonwealth Treasury

any property tax heretofore collected and that may be collected on and after the date of approval of this act, by virtue of Joint Resolution No. 36, approved April 29, 1927."

#### ANNOTATIONS

1. Prior law — Repeal of J.R. No. 36 of 1927. Assuming that Joint Resolution No. 36 of 1927 was validated by Act No. 93 of 1938 and by the Act of Congress of June 16, 1938, it was substituted, and therefore repealed, by Act No. 83 of 1941. *P. R. Ry., L. & P. Co. v. District Court*, 1942, 59 P.R.R. 912.

2. — Tax exemption. As Culebra island has no rivers and Vieques has only small rivulets, and as they can not be benefited by Act No. 60 of 1925, exemption from the payment of taxes imposed by that act is justified. *American Cigar Co. v. Gallardo*, 1928, 38 P.R.R. 137.

3. — Damages. In Section 9 of Joint Resolution No. 36 of 1927 a declaration is made as to the duty of indemnifying landowners for damages occasioned in consequence of the works therein specified carried out for the development of water resources. The People of Puerto Rico does not therein give its consent expressly to be sued. If implicitly given, it would be only in connection with the works so specified, and in such case the works described in the complaint in this case as done by employees of the People are not clearly included therein. *Masini v. People*, 1938, 52 P.R.R. 766.

#### § 192. Definitions

The following terms, whenever used or referred to in sections 191-217 of this title, shall have the following meanings, except where the context clearly indicates otherwise:

(a) The term "Authority" shall mean the Puerto Rico Water Resources Authority created by sections 191-217 of this title.

(b) The term "Board" shall mean the Governing Board of the Authority.

(c) The term "bonds" shall mean the bonds, temporary bonds, refunding bonds, debentures, notes, interim bonds, receipts, certificates, or other evidences of indebtedness or obligations which the Authority is authorized to issue pursuant to sections 191-217 of this title.

(d) The term "undertaking" shall mean any one or a combination of two or more of the following for continuing the development of the water and energy resources of Puerto Rico, to wit: water, irrigation, electric, heat, light, power or equipment works, facilities, structures, plants or systems together with all parts thereof and appurtenances thereto, and lands, rights in lands, water rights, rights and privileges in connection therewith and any and all other property or services which the Authority shall deem to be necessary, proper, incidental or convenient in connection with its activities including, but not limited to, irrigation and hydroelectric supply and distribution systems, plants for generating electricity by

water power or by any other means, including steam, and stations, reservoirs, dams, canals, tunnels, conduits, transmission and distribution lines, and other facilities and appurtenances necessary, useful, or customarily used and employed in the production, diversion, collection, storage, conservation, utilization, transportation, distribution, sale, exchange, rendering, or other disposition of water, electric energy, electric equipment, supplies, services or other activities in which the Authority shall engage or desire to engage pursuant to its purposes.

(e) The term "Federal agency" shall mean the United States of America, the President or any Department thereof, or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States of America.

(f) The term "holder of bonds" or "bondholder" or any similar term shall mean any person who shall be the bearer of any outstanding bond or bonds registered to bearer or not registered or the registered owner of any outstanding bond or bonds which at the time shall be registered other than to bearer.

(g) The term "System of Utilization of the Water Resources" shall mean all the works and property forming the development of water resources and electric system constructed or acquired, or in process of being constructed or acquired, or intended to be constructed or acquired by the Commonwealth Government, together with the rights, water rights, and water-power rights, used, useful, or appropriate in connection with said development and system so far accomplished, or with the continuance and expansion of said development and system by means of revenue-producing undertakings, under the provisions of Act No. 60, approved July 28, 1925, Joint Resolution No. 36, approved April 29, 1927, Act No. 36, approved April 25, 1930, Act No. 93, approved May 6, 1938, Act No. 7, approved April 6, 1931, Joint Resolution No. 5, approved April 8, 1931, Act No. 8, approved July 12, 1932, Joint Resolution No. 7, approved March 29, 1935, Joint Resolution No. 27, approved April 17, 1935, Act No. 41, approved August 6, 1935, Act No. 1, approved September 22, 1936, Act No. 94, approved May 6, 1938, and Act No. 21, approved June 17, 1939, all of which are Acts and Joint Resolutions of the Legislature of Puerto Rico.

(h) The term "Utilization of the Water Resources" shall mean the organization established pursuant to law by the Commissioner of the Interior of Puerto Rico for the purpose of handling the activities provided for by Act No. 60, approved July 28, 1925, Joint

Resolution No. 36, approved April 29, 1927, Act No. 26, approved April 25, 1930, Act No. 93, approved May 6, 1938, under which organization there were also placed by the Commissioner of the Interior of Puerto Rico, in accordance with the provisions of Act No. 58, approved April 30, 1928, all matters relative to the operation, including surveys and technical direction of new constructions, extensions and improvements, of the "Hydroelectric System of the Puerto Rico Irrigation Service, South Coast."

(i) The term "Hydroelectric System of the Puerto Rico Irrigation Service, South Coast," shall mean the hydroelectric works and transmission and distribution lines and all facilities forming the electric system constructed or acquired pursuant to the provisions of the Public Irrigation Law, approved September 18, 1908, sections 251-259 of this title and laws amendatory thereof or supplementary thereto.

(j) Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, partnerships of all kinds and corporations. — May 2, 1941, No. 83, p. 684, § 2; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1, eff. July 25, 1952.

#### HISTORY

Text references. Act Apr. 30, 1928, No. 58, p. 412, referred to in subsec. (h) of this section, is quoted in note under section 214 of this title. For subject matter of the other acts cited in subsecs. (g) and (h) of this section, see note under section 191 of this title.

Codification. "Insular" was changed to "Commonwealth" pursuant to the Constitution.

### § 193. Creation and composition of Authority

(a) The Governor or Puerto Rico, the Secretary of Public Works of Puerto Rico, and the Secretary of Agriculture and Commerce of Puerto Rico are hereby created a body corporate and politic constituting a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico by the name of the "Puerto Rico Water Resources Authority." Said Members of the Authority shall be entitled to no compensation for their services as Members.

(b) The Authority hereby created is and shall be a governmental instrumentality subject, as provided herein, to the control of certain officers of the Commonwealth Government, namely the Governor, Secretary of Public Works and Secretary of Agriculture and Commerce acting in their capacity as the Members and Govern-



ing Board thereof but it is a corporation having legal existence and personality separate and apart from that of the government and those of the officers so controlling it. The debts, obligations, contracts, bonds, notes, debentures, receipts, expenditures, accounts, funds, undertakings, and property of the Authority, its officers, agents or employees shall be deemed to be those of said government-controlled corporation and not to be those of the Commonwealth Government or any office, bureau, department, commission, dependency, municipality, branch, agent, officer or employee thereof. — May 2, 1941, No. 83, p. 684, § 3; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1, art. IX, § 4; July 24, 1952, No. 6, p. 10, eff. July 25, 1952.

#### HISTORY

Codification. "People" and "Insular" were changed to "Commonwealth" pursuant to the Constitution. "Commissioner of the Interior" was changed to "Secretary of Public Works", and "Commissioner of Agriculture and Commerce" was changed to "Secretary of Agriculture and Commerce" pursuant to Act July 24, 1952, No. 6.

Department of Commerce. See sections 431-440 of Title 3, and Const. art. IX, § 8.

#### § 191. Governing Board

(a) The powers of the Authority shall be exercised by a Governing Board consisting of the Members of the Authority acting as a board. The Governor shall be the Chairman of the Board and the Secretary of Public Works shall be Vice-Chairman. Within sixty (60) days after this Act becomes effective, the Board shall meet and organize and shall at that time appoint an Executive Director of the Authority and a Secretary, neither of whom shall be a Member of the Authority. The Executive Director shall be authorized to attend all meetings of the Board but shall not be entitled to vote.

(b) Two Members of the Board shall constitute a quorum of the Board for the purpose of organizing the Authority and conducting the business thereof and for all other purposes, and all action shall be taken only by a vote of a majority. The bylaws of the Authority may provide for the delegation to its Executive Director or its other officers, agents, or employees of such of the powers and duties of the Authority as the Board may deem proper. — May 2, 1941, No. 83, p. 684, § 4; Apr. 8, 1942, No. 19, p. 330, § 1; July 21, 1952, No. 6, p. 10, eff. July 25, 1952.

#### HISTORY

Codification. "Commissioner of the Interior" was changed to "Secretary of Public Works" pursuant to Act July 24, 1952, No. 6.

## § 195. Executive Director

The Executive Director shall be appointed by the Board exclusively upon the basis of merit as determined by technical training, skill, experience, and other qualifications best suited to carrying out the purposes of the Authority. The Executive Director shall be removable by the Board but only for cause and after he has been given notice and an opportunity to be heard. — May 2, 1941, No. 83, p. 684, § 5; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

## § 196. Powers of the Authority /

The Authority is created for the purpose of conserving, developing, and utilizing, and aiding in the conservation, development, and utilization of water and energy resources of Puerto Rico, for the purpose of making available to the inhabitants of the Commonwealth, in the widest economic manner, the benefits thereof, and by this means to promote the general welfare and increase commerce and prosperity; and the Authority is granted and shall have and may exercise all rights and powers necessary or convenient for the carrying out of the aforesaid purposes, including (but without limiting the generality of the foregoing) the following:

- (a) To have perpetual existence as a corporation;
- (b) To adopt, alter, and use a corporate seal, which shall be judicially noticed;
- (c) To prescribe, adopt, amend, and repeal bylaws governing the manner in which its general business may be conducted and the powers and duties granted to and imposed upon it by law may be exercised and performed;
- (d) To have complete control and supervision of any undertaking constructed or acquired by it including the power to determine the character of and necessity for all its expenditures and the manner in which they shall be incurred, allowed and paid without regard to the provisions of any laws governing the expenditure of public funds, and such determination shall be final and conclusive upon all officers of the Commonwealth Government, and to prescribe, adopt, amend, and repeal such rules and regulations as may be necessary or proper for the exercise and performance of its powers and duties or to govern the rendering of service or sale or exchange of water or electric energy;
- (e) To sue and be sued, implead and be impleaded, complain and defend, in all courts;

(f) To make contracts and to execute all instruments necessary or convenient in the exercise of any of its powers;

(g) To prepare, or cause to be prepared, plans, designs, and estimates of costs for the construction, reconstruction, extension, improvement, enlargement, or repair of any undertaking or any part or parts thereof, and from time to time to modify such plans, designs, and estimates;

✓ (h) To acquire in any lawful manner including, but without limitation, acquisition by purchase, whether by agreement or by the exercise of the power of eminent domain, lease, bequest, devise, gift, and to hold, maintain, use and operate any undertaking or parts thereof;

(i) To acquire in the manner set forth in subsection (h) hereof, produce, impound, develop, manufacture, treat, hold, conserve, use, transmit, distribute, supply, exchange, sell, rent and otherwise dispose of, water, electric energy, equipment, and such other things, supplies and services as the Authority shall deem necessary, proper, incidental, or convenient in connection with its activities; Provided, That in disposing at wholesale of electric energy the Authority shall give preference and priority as to supply to public bodies and cooperatives;

(j) Acquire in the manner set forth in subsection (h) hereof and to hold and use any property, real, personal, or mixed, tangible or intangible, or any interest therein, deemed by it to be necessary or convenient for carrying out the purposes of the Authority, and (subject to the limitations contained in sections 191-217 of this title) to lease as lessor, or exchange, any property or interest therein at any time acquired by it;

(k) To construct or reconstruct any undertaking or any part or parts thereof, and any additions, improvements, and extensions to any undertaking of the Authority by contract or contracts, or under, through, or by means of its own officers, agents, and employees;

✓ (l) To determine, fix, alter, charge, and collect reasonable rates, fees, rentals, and other charges for the use of the facilities of the Authority, or for the services, electric energy, or other commodities sold, rendered, or furnished by it, which shall be sufficient for the payment of the expenses of the Authority incurred in the conservation, development, improvement, extension, repair, maintenance, and operation of its facilities and properties, for the payment of the principal of and interest on its bonds, and for fulfilling the terms

and provisions of such covenants as may be made with, or for the benefit of, the purchasers or holders of any bonds of the Authority; Provided, That, in fixing rates, fees, rentals, and other charges for electric energy, the Authority shall have in view the encouragement of the widest economically possible diversified use of electric energy: and that before changes in the general rate structure for the sale of electric service are made, or, in cases where the Board shall decide to make changes and deems the immediate effectiveness thereof to be necessary, then within a reasonable time after such changes are made, a public hearing shall be held with respect thereto before the Board of the Authority, or before such hearing officer or officers as the Board may designate, and upon such hearing, the Board, pursuant to the powers, duties, and obligations vested in it by sections 191-217 of this title, may alter, suspend or revoke such changes;

(m) To appoint such officers, agents, and employees and vest them with such powers and duties, and to fix, change, and pay such compensation for their services as the Authority may determine;

(n) To borrow money, make and issue bonds of the Authority for any of its corporate purposes, and to secure payment of its bonds and of any and all other obligations by pledge of or lien on all or any of its contracts, revenues, and income only;

(o) To make and issue bonds for the purpose of funding, refunding, purchasing, paying, or discharging any of the outstanding bonds or obligations issued or assumed by it or any bonds or obligations the principal or interest of which is payable in whole or in part from its revenues;

(p) To accept grants from, and enter into contracts, leases, agreements, or other transactions with, any Federal agency, the Commonwealth of Puerto Rico, or political subdivisions of the Commonwealth of Puerto Rico, and to expend the proceeds of any such grants for any corporate purposes;

(q) To sell, or otherwise dispose of, any property of any kind, real, personal, or mixed, or any interest therein, that in the judgment of the Board is no longer necessary for carrying on the business of the Authority or for effectuating the purposes of sections 191-217 of this title;

(r) To enter on any lands, waters, or premises, after notifying the owners or holders thereof, or their representatives, for the purpose of making surveys, soundings, or examinations;

(s) To do all acts or things necessary or convenient to carry out the powers granted to it by sections 191-217 of this title or by any other Act of the Legislature of Puerto Rico, or by any Act of the Congress of the United States; Provided, however, That the Authority shall have no power at any time or in any manner to pledge the credit or taxing power of the Commonwealth of Puerto Rico or any of its political subdivisions, nor shall the Commonwealth of Puerto Rico or any of its political subdivisions be liable for the payment of the principal of or interest on any bonds issued by the Authority. — May 2, 1941, No. 83, p. 684, § 6; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1, art. IX, § 4, eff. July 25, 1952.

#### HISTORY

Codification. "Island", "Insular", and "People" were changed to "Commonwealth" pursuant to the Constitution.

Text of regulations. For the text of regulations authorized by this section, see section 196-1 et seq. of Title 22, Rules and Regulations of Puerto Rico.

Cross references. Procedure for condemnation of property, see 1958 Civil Procedure Rules 58.1-58.10, Title 32 App.

#### ANNOTATIONS

1. Donations. The power of the Puerto Rico Water Resources Authority for accepting gifts, as well as the power of the Governor or the Secretary of Public Works for accepting gifts in the name of such authority in relation to the Southwestern Puerto Rico Project (Lajas Valley Project) is contained in Acts No. 83 of 1943 (section 1191 et seq. of this title), No. 23 of 1952 (section 361 et seq. of this title), and No. 65 of 1953 (section 341 et seq. of this title), and said power is not limited by the proviso contained in section 1101 of Title 3, which states that gifts may only be accepted when they come from nonprofit institutions. 1960 Op. Sec. Jus. No. 58.

The Puerto Rico Water Resources Authority can accept a donation even if it is coming from profit institutions, but subject to the condition that the properties thus acquired be used for the purposes of the Southwestern Puerto Rico Project or Lajas Valley Project. *Id.*

#### § 197. Officers and employees

(a) Appointments, removals, promotions, transfers, discontinuances, reinstatements, suspensions, leaves of absence and changes in grade, compensation or title of the officers and employees of the Authority shall be made and permitted as provided in rules and regulations to be prescribed by the Board in pursuance of a general plan similar, insofar as the Board shall deem it consistent with the best interests of the Authority, of its employees and of its service to the public, to that which may be in effect for employees of the Commonwealth Government under the Personnel Act, sections 641-678 of Title 3. The members, officers, and employees of the

Authority shall be entitled to reimbursement for, or per diem payment in lieu of, such necessary travel expenses as shall be authorized or approved pursuant to rules and regulations of the Board. Officers and employees of any board, commission, agency, or department of the Commonwealth of Puerto Rico may be appointed to similar positions in the Authority without examination. Any such Commonwealth officers and employees that shall have been so appointed who, prior to said appointment, were beneficiaries of any existing pension, retirement or savings and loan fund system or systems, shall continue to have, after said appointment, the rights, privileges, obligations, and status, with respect thereto that are prescribed by law for officers and employees holding similar positions in the Commonwealth Government, unless within six (6) months after this Act takes effect or six (6) months after said appointment, whichever is later, they or any of them shall signify the intention to relinquish them, in which case they shall then have those of resigned or separated officers or employees of the Commonwealth Government; and all employees so appointed to positions in the Authority who, at the time of their appointment, held or shall have held positions in the Commonwealth Government or any rights or status under the rules and classifications of the Puerto Rico Office of Personnel, shall have the same status with respect to employment or re-employment in the service of the Commonwealth Government as they had at the time they entered the service of the Authority or since better or higher right or status as the Office of Personnel shall consider to be consistent with advancement attained in the Authority. All officers and employees appointed to positions in the Authority, who, at the time of their appointment, had, or shall later acquire, some right or status under the rules and classifications of the Puerto Rico Office of Personnel for appointment to any similar position in the Commonwealth Government shall have, upon request, the same rights, privileges, obligations, and status, with respect to becoming beneficiaries of any existing pension, retirement or savings and loans fund system or systems, as if they had been appointed to similar positions in the Commonwealth Government. The Authority shall be subject to the provisions of sections 245-246m of Title 29.

(b) No person shall hold office as a Member, officer, employee, or agent of the Authority who has a direct or indirect financial interest in any privately owned public utility in Puerto Rico engaged in the production, distribution, or sale of electric energy, or in any

entity in or outside of Puerto Rico affiliated with or having any interest in any such public utility in Puerto Rico; or who has a direct or indirect financial interest in any industrial or commercial enterprise engaged in the production, distribution, or sale of any commodity or service of a character commercially opposed to, or in competition in Puerto Rico with, the production, distribution, or sale of electric energy produced by hydroelectric means; Provided, That where such incompatibility affects a Member of the Authority, the position of such Member shall become vacant, and the vacancy so created shall be filled for the time that said incompatibility exists, by the appointment by the Governor of Puerto Rico of the head of any Department of the Commonwealth Government. — May 2, 1911, No. 83, p. 684, § 7; Apr. 8, 1942, No. 19, p. 330, § 1; May 12, 1947, No. 345, p. 594; Const., art. I, § 1, art. IX, § 4; June 26, 1956, No. 96, p. 622.

#### HISTORY

**Codification.** "People" and "Insular" were changed to "Commonwealth" pursuant to the Constitution. "Civil Service Laws of Puerto Rico" was changed to "Personnel Act, sections 641-678 of Title 3", and "Civil Service Commission" was changed to "Office of Personnel" pursuant to Act May 12, 1947, No. 345. Reference to "sections 211-241 of Title 29" was changed to "sections 245-246m of Title 29", pursuant to Act June 26, 1956, No. 96, p. 622.

**Retirement or pension plans.** The provisions of this section as to retirement or pension plans are affected by sections 218-220 of this title.

**Cross references.** All officials and employees of Puerto Rico Water Resources Authority in exempt service, see section 648 (a) (6) of Title 3.

Employees of Isabela Irrigation Service transferred to Puerto Rico Water Resources Authority, see section 236 of this title.

#### § 198. Transfer of System of the Utilization of the Water Resources

There is hereby transferred and delivered, or there shall be so transferred and delivered to the Authority, all the property, real, personal, and mixed, tangible and intangible, of whatsoever kind and wheresoever situated, constituting the "System of the Utilization of the Water Resources" including all the funds, rights, franchises, privileges and assets of every character and description pertaining thereto, subject to all obligations and encumbrances, legal or equitable, with which the same may be burdened. — May 2, 1941, No. 83, p. 684, § 8; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

#### HISTORY

**Cross references.** Effective date of transfer, see section 199 of this title.

§ 199. Transfer of records

The transfers provided by section 198 of this title shall take effect ninety (90) days after this Act becomes effective. As soon as possible thereafter, the Utilization of the Water Resources and the Department of the Interior of Puerto Rico shall transfer and deliver to the Authority all contracts, books, maps, plans, papers, books of account, and reports of whatever description relating to the operation, maintenance, designing, or construction of any existing or contemplated undertaking, and the Authority is authorized to take possession for its uses and purposes of all such contracts, books, maps, plans, papers; books of account, and records. — May 2, 1941, No. 83, p. 684, § 9, eff. 90 days after May 2, 1941; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

HISTORY

Text references. The Department of the Interior referred to in this section became the Department of Public Works under Act July 24, 1952, No. 6, p. 10, eff. July 25, 1952.

§ 200. Continuity of obligations

The Authority shall not take any action which shall have the effect of impairing the obligation of any contractual duties imposed upon or assumed by The People of Puerto Rico under authority of existing law. From and after the effective date of the transfers provided by section 198 of this title, the Authority shall assume all contracts and obligations of any department or agency of The People of Puerto Rico which may have been entered into or incurred for, or in the name of, or on behalf of, the Utilization of the Water Resources; and all such contracts and obligations shall inure to the benefit and credit of the Authority. — May 2, 1941, No. 83, p. 684, § 10; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

HISTORY

Text references. The Commonwealth of Puerto Rico is the successor of The People of Puerto Rico referred to in this section under Const., art. IX, § 4, eff. July 25, 1952.

§ 201. Appropriations and acts confirmed

All appropriations by the Legislature of Puerto Rico, whether by Act or by Joint Resolution, to or for the Utilization of the Water Resources or for the development of the water resources of Puerto Rico, by approved, confirmed, and ratified, and all sums so appropriated and all sums set



aside or required to be set aside to or for the Utilization of the Water Resources or for the development of the water resources of Puerto Rico, except only appropriations to or for the benefit of public irrigation systems built and operated by the Commonwealth Government pursuant to special laws and all sums set aside or acquired to be set aside for said systems, shall be available to the Authority for the purposes for which they were so appropriated and set aside. — May 2, 1911, No. 83, p. 684, § 11; Apr. 8, 1912, No. 19, p. 330, § 1; Const., art. I, § 1, eff. July 25, 1952.

#### HISTORY

Codification. "Insular" was changed to "Commonwealth" pursuant to the Constitution.

#### § 202. Moneys and accounts of the Authority

All moneys of the Authority shall be deposited in qualified depositories for funds of the Commonwealth Government, but they shall be kept in a separate account or accounts in the name of the Authority. The disbursements shall be made by it pursuant to regulations and budgets approved by the Board.

The Secretary of the Treasury of Puerto Rico shall, upon consultation with the Authority, establish the accounting system required for the proper statistical control and record of all expenses and income belonging to or managed or controlled by the Authority. The said Secretary of the Treasury shall require that the accounts of the Authority be kept in such manner as appropriately to segregate, insofar as advisable, the accounts in respect of the different classes of operations, projects, undertakings, and activities of the Authority, and he shall consider the advisability of requiring the Authority to adopt in whole or in part the system of accounts from time to time prescribed by the Federal Power Commission, or other Federal Authority, for public utilities owning properties and engaged in business similar to the properties and business of the Authority, and the necessity of keeping in accordance with such system of accounts, complete accounts of costs of generation, transmission, and distribution of electric energy and of the total cost of electric generation, transmission and distribution works constructed or otherwise acquired by the Authority and a description of the major components of said costs, together with records of such other physical data and operating statistics as may be helpful in determining the actual cost and value of the services and practices, the methods, facilities, equipment, appliances, and

the standards and sizes, types, location and geographical and economic integration of the plants and systems under the control of the Authority which may be best suited to promote the public interest, the efficiency and the wider and more economical use of electric energy; Provided, also, That the said Secretary of the Treasury or his representative shall from time to time, examine the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters which relate to its financial condition, and shall report thereon to the Board of the Authority and the Legislature. — May 2, 1941, No. 83, p. 684, § 12; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1; July 24, 1952, No. 10, p. 22, eff. July 25, 1952.

#### HISTORY

Codification. "Auditor" was changed to "Secretary of the Treasury" pursuant to Act July 24, 1952, No. 10. "Insular" was changed to "Commonwealth" pursuant to the Constitution.

Cross references. Audit of accounts by Controller, see sections 71-73, 75-87 of Title 2.

#### § 203. Acquisition of property by the Commonwealth for the Authority

"Upon application of the Authority, the Governor of Puerto Rico or the Secretary of Public Works shall have power to purchase, either by agreement or by the exercise of the right of eminent domain, or by any other lawful means, title in the name and in behalf of the Commonwealth of Puerto Rico, to any property or interest therein which the Board of the Authority shall deem necessary or convenient for its purposes. The Authority may make available to said officers in advance such funds as may be needed for the payment of said property, and upon acquisition thereof, may reimburse the Commonwealth Government for any amount paid that shall not have been previously advanced. Upon such reimbursement to the Commonwealth Government (or, if the total cost or price has been previously advanced by the Authority, within such reasonable period as shall be determined by the Governor) the title to property so acquired shall pass to the Authority. The Secretary of Public Works may, with the approval of the Governor, make such arrangements as he may deem appropriate for the operation and control of said property by the Authority in behalf of the Commonwealth Government during the period intervening before said title has passed to the Authority. The power

hereby conferred shall not limit or restrict in any manner or to any extent the power of the Authority itself to acquire property. The title to any property of the Commonwealth of Puerto Rico heretofore or hereafter acquired, and which shall be considered necessary or convenient for the purposes of the Authority, may be transferred to the Authority by the official in charge of said property or having the custody thereof, upon such terms and conditions as shall be determined by the Governor or the officer or agency designated by him. — May 2, 1941, No. 83, p. 684, § 13; Apr. 8, 1942, No. 19, p. 330, § 1; 1950 Reorg. Plan No. 12, §§ 1(7), 2; Const., art. I, § 1, art. IX, § 4; July 24, 1952, No. 6, p. 10, eff. July 25, 1952.

#### HISTORY

*Codification.* "People" and "Insular" were changed to "Commonwealth" pursuant to the Constitution. "Commissioner of the Interior" was changed to "Secretary of Public Works" pursuant to Act July 24, 1952, No. 6. "Executive Council" was changed to "Governor or the officer or agency designated by him" pursuant to 1950 Reorg. Plan No. 12, §§ 1(7), 2.

*Cross references.* Procedure for condemnation of property, see 1958 Civil Procedure Rules 58.1-58.10, Title 32 App.

#### § 201. Grant of property by municipalities and political subdivisions to the Authority

All municipalities and political subdivisions of Puerto Rico, notwithstanding any contrary provision of law, are authorized to grant and convey to the Authority, upon its request and upon reasonable terms and conditions, any property or interest therein (including property already devoted to public use) which the Authority may deem necessary or convenient to effectuate the purposes of the Authority. The Authority shall have the right and power to construct or place any part or parts of any of its undertakings across, in, over, under, through or along any street, public highway, or any lands which are now or may hereafter be property of the Commonwealth Government or any municipality or political subdivision thereof, without obtaining any franchise or other permit therefor. The Authority shall restore any such street, highway, or lands, as nearly as may be, to their condition or state at the beginning of the work, and shall not use the same in a manner to impair unnecessarily their usefulness.

When it becomes necessary to relocate installations or undertakings of the Authority on the public highway or in any other place by reason or as a result or consequence of the execution, construction, expansion, repair or improvement of a public work

undertaken by the Department of Public Works, or by any other government agency, public corporation or municipality, including the Municipality of San Juan, the cost of such relocation shall be considered a part of the cost of such public work and shall be paid or reimbursed to said Authority by the corresponding entity executing the work, according to the system in force with respect to payments belonging to the execution of a public work; Provided, That when the Federal Government may make any contribution toward defraying such expenses of relocation, the requirements necessary to make possible such contribution shall be met, and provided, further, that if the relocation is used for an improvement or expansion of the affected system, the Authority shall assume the resulting additional cost. — May 2, 1941, No. 83, p. 684, § 14; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1; June 6, 1960, No. 58, p. 92, § 1; July 21, 1960, No. 142, p. 505, eff. Jan. 9, 1961.

#### HISTORY

Codification. "Insular" was changed to "Commonwealth" pursuant to the Constitution. "Government of Capital" was changed to "Municipality of San Juan" pursuant to Act July 21, 1960, No. 142. See section 1101 of Title 21 and notes thereunder.

Amendments — 1960. Act June 6, 1960, No. 58, added second paragraph.

Effective date of amendment. Section 2 of Act June 6, 1960, No. 58, provided: "This act shall take effect immediately after its approval, but its effect and scope shall be made retroactive to May 2, 1941, date of the creation of the Puerto Rico Water Resources Authority, since the legislative intent was and has been that said Authority not assume the costs of relocation of its installations or undertakings as a result of the execution, construction, expansion, repair or improvement of a public work undertaken by the Department of Public Works or any other government agency, public corporation or municipality, including the Government of the Capital."

#### § 205. Construction and purchase contracts

All purchases and contracts for supplies or services, except for personal services, made by the Authority, including contracts for the construction of works of the Authority, shall be made after advertisement for bids sufficiently in advance of opening bids for the Authority to secure appropriate notice and opportunity for competition; Provided, That where the expense estimated to be necessary in connection with the purchase or work does not exceed one thousand (1,000) dollars, the same may be carried out without advertisement for bids. Advertisement for bids shall not be required, however, when (1) an emergency requires immediate delivery of the materials, supplies, equipment, or performance of the services; or (2) repair parts, accessories, or supplemental

equipment or services are required for supplies or services previously furnished or contracted for; (3) professional or expert services or work are required and the Authority shall deem it best in the interest of good administration that contracts therefor be made without such advertisement; or (4) prices are noncompetitive because there is only one source of supply or because regulated under law; in any such case the purchase of such materials, supplies, or equipment, or procurement of such services, may be made in the open market in the manner usual in commercial practice. In the comparison of bids and the making of awards, due consideration shall be given to such factors (in addition to whether the bidder has complied with the specifications) as the bidder's ability to perform construction work of the kind involved in the construction contract under consideration; the relative quality and adaptability of materials, supplies, equipment, or services; the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repair and maintenance services; and the time of delivery or performance offered. The Authority may prescribe rules and regulations for the submission of bids. — May 2, 1911, No. 83, p. 684, § 15; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

#### § 206. Bonds of the Authority

(a) By authority of the Government of Puerto Rico, which is hereby granted, the Puerto Rico Water Resources Authority may issue and sell its own bonds from time to time and have outstanding at any one time, exclusive of bonds issued solely for the purpose of exchanging the same in return for the cancellation of bonds either issued by the Authority or assumed by it, bonds not in excess of five million (5,000,000) dollars, in aggregate principal amount of its bonds, in addition to all sums that the Legislature of Puerto Rico has authorized or may authorize separately for particular purposes; Provided, however, That refunding bonds of the Authority issued solely for the purpose of applying the proceeds thereof to the payment for, or purchase of, bonds issued by the Authority or assumed by it, shall not be included in computing any such limitation until six (6) months after their sale.

(b) The bonds may be authorized by resolution or resolutions of the Board, and may be of such series, may bear such date or dates, may mature at such time or times not exceeding fifty (50) years from their respective dates, may bear interest at such rate

or rates not exceeding six (6) per centum per annum, payable semiannually, may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration or conversion privileges, may be executed in such manner, may be payable in such medium of payment and at such place or places, may be subject to such terms of redemption, with or without premium, may be declared or become due at such time before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the Authority shall determine; Provided, That refunding bonds may be exchanged for outstanding bonds of the Authority on such terms as the Board may deem to be in the best interests of the Authority. Notwithstanding the form and tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all bonds of the Authority shall at all times be, and shall be understood to be, negotiable instruments for all purposes.

(c) The bonds of the Authority bearing the signature of Members of the Board or Officers of the Authority in office on the date of the signing thereof, shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the Members of the Board or officers of the Authority whose signatures or facsimile signatures appear thereon shall have ceased to be such Members of the Board or such officers of the Authority. The validity of the authorization and issuance of the bonds shall not be dependent on or affected in any way by any proceedings relating to the construction, acquisition, extension, or improvement of the undertaking for which the bonds are issued, or by any contracts made in connection with such undertaking. Any resolution authorizing the bonds may provide that any such bond may contain a recital that it is issued pursuant to sections 191-217 of this title, and any bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of sections 191-217 of this title.

(d) Pending the execution and delivery of definitive bonds, temporary or interim bonds, receipts or certificates may be issued in

such form and with such provisions, as may be provided in such resolution or resolutions.

(c) Any resolution or resolutions authorizing any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, —

(1) As to the disposition of the entire gross or net revenues and present or future income of the Authority, including the pledging of all or any part thereof to secure payment of the bonds;

(2) As to the rates to be charged for water and electric energy, and the application, use, and disposition of the amounts that may be raised by the collection of such rates and from other receipts of the Authority;

(3) As to the setting aside of reserves for amortization funds, and the regulation and disposition thereof;

(4) As to limitations on the right of the Authority to restrict and regulate the use of any undertaking or part thereof;

(5) As to limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

(6) As to limitations on the issuance of additional bonds;

(7) As to the procedure by which the terms of any resolution authorizing bonds or any other contract with the bondholders, may be amended or abrogated, and the amount of the bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) As to the amount and kind of insurance to be maintained on the undertakings of the Authority; and the use and disposition of insurance moneys;

(9) As to covenanting against pledging all or any part of the revenues and income of the Authority to which its right then exists or the right to which may thereafter come into existence;

(10) As to events of default and terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(11) As to the rights, liabilities, powers, and duties arising upon the breach by the Authority of any of its covenants, conditions, or obligations;

(12) As to the vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the bonds; as to the powers and duties of each trustee or trustees, and

the limitation of the liabilities thereof; and as to the terms and conditions upon which the holders of the bonds or any proportion of percentage of them may enforce any covenants made under sections 191-217 of this title or duties imposed hereby;

(13) As to the manner of collecting the rates, fees, rentals, or other charges for the services, facilities, or commodities of undertaking of the Authority, and the combining in one bill of the rates, fees, rentals, or other charges for the services, facilities, or commodities of any two or more of such undertakings;

(14) As to the discontinuance of the services, facilities, or commodities of any undertakings of the Authority, in the event that the rates, fees, rentals, or other charges for the services, facilities, or commodities of such undertaking are not paid; and

(15) As to any other acts and things not inconsistent with sections 191-217 of this title that may be necessary or convenient for the security of the bonds, or as may tend to make the bonds more marketable.

(f) Neither the Members of the Board nor any person executing the bonds shall be liable personally on the bonds or be subject to any liability by reason of the issuance thereof.

(g) The Authority is authorized to purchase any outstanding bonds issued or assumed by it with any funds available therefor, at a price not more than the principal amount or the current redemption price thereof and the accrued interest. All bonds so purchased shall be cancelled. - May 2, 1941, No. 83, p. 684, § 16; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

#### § 207. Right to receivership upon default

(a) In the event that the Authority shall default in the payment of the principal of, or interest on, any of its bonds after the same shall become due, whether it be a default in the payment of principal and interest or in the payment of interest only at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the Authority or the Board, officers, agents, or employees thereof shall default in any agreement made with the holders of the bonds, any holder or holders of the bonds (subject to any contractual limitation as to a specific percentage of such holders), or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to any court of competent jurisdiction in Puerto Rico for the appointment of a receiver of the undertakings, or parts thereof, the income or



revenues of which are pledged to the payment of the bonds so in default, whether or not all the bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right or to exercise any remedy in connection with such bonds. Upon such application the court may appoint, and if the application is made by the holders of twenty-five (25%) per centum in principal amount of such bonds then outstanding, or by any trustee for holders of bonds in such principal amount, shall appoint a receiver of such undertakings.

(b) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of such undertakings and each and every part thereof, and may exclude the Authority, its Board, officers, agents, and employees and all persons claiming under them, wholly therefrom and shall have, hold, use, operate, manage, and control the same and each and every part thereof, and, in the name of the Authority or otherwise, as the receiver may deem best, shall exercise all the rights and powers of the Authority with respect to such undertakings as the Authority itself might do. Such receiver shall maintain, restore, insure, and keep insured, such undertakings and from time to time shall make all such necessary or proper repairs as such receiver may deem expedient, shall establish, levy, maintain, and collect such rates, fees, rentals, and other charges in connection with such undertakings as such receiver may deem necessary, proper and reasonable, and shall collect and receive all income and revenues and deposit the same in a separate account and apply the income and revenues so collected and received in such manner as the court shall direct.

(c) Whenever all that is due upon the bonds, and interest thereon, and upon any notes, bonds, or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of such undertakings and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults in consequence of which a receiver may be appointed shall have been cured and made good, the court may, in its discretion and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of such undertakings to the Authority, the same right of the holders of the bonds to obtain the appointment

of a receiver to exist upon any subsequent default as hereinabove provided.

(d) Such receiver shall act, in the performance of the powers hereinabove conferred upon him, under the direction and supervision of the court and shall at all times be subject to the orders and decrees of the court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of the court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth in sections 191-217 of this title.

(e) Notwithstanding anything in this section to the contrary, such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the Authority and useful for such undertakings, but the powers of any such receiver shall be limited to the operation and maintenance of such undertakings, and the collection and application of the income and revenues therefrom, and the court shall not have jurisdiction to enter any order or decree requiring or permitting said receiver to sell, mortgage, or otherwise dispose of any such assets. — May 2, 1941, No. 83, p. 684, § 17; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

#### § 208. Remedies of bondholders

(a) Subject to any contractual limitations binding upon the holders of any issue of bonds, or trustees therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of bonds similarly situated —

(1) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the Authority and its Board, officers, agents, or employees to perform and carry out its and their duties and obligations under sections 191-217 of this title and its and their covenants and agreements with bondholders;

(2) By action or suit in equity to require the Authority and the Board thereof to account as if they were the trustee of an express trust;

(3) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders; and

(4) To bring suit upon the bonds.

(b) No remedy conferred by sections 191-217 of this title upon any holder of the bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and may be exercised without exhausting and without regard to any other remedy conferred by sections 191-217 of this title or by any other law. No waiver of any default or breach of duty or contract, whether by any holder of the bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of the bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action, or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the bonds, or any trustee therefor, then and in every such case the Authority and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action, or proceeding had been brought or taken. — May 2, 1941, No. 83, p. 684, § 18; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

#### § 20 . Reports

The Authority shall submit to the Legislature and to the Governor of Puerto Rico, as soon as practicable after the close of each fiscal year of the Commonwealth Government but prior to the end of the calendar year (1) a financial statement and complete report of the business of the Authority for the preceding fiscal year, and (2) a complete report on the status and progress of all its undertakings and activities since the creation of the Authority or the date of its last such report. The Authority shall also submit to the Legislature and to the Governor of Puerto Rico, at such other times as may be required, official reports of its business and activities under sections 191-217 of this title. — May 2, 1941, No. 83, p. 684, § 19; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1, eff. July 25, 1952.

## HISTORY

Codification. "Insular" was changed to "Commonwealth" pursuant to the Constitution.

§ 210. Commonwealth and its political subdivisions not liable on bonds

The bonds and other obligations issued by the Authority shall not be a debt of the Commonwealth of Puerto Rico or any of its municipalities or other political subdivisions, and neither the Commonwealth of Puerto Rico nor any such municipalities or other political subdivisions shall be liable thereon, nor shall such bonds or other obligations be payable out of any funds other than those of the Authority. — May 2, 1941, No. 83, p. 684, § 20; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. IX, § 4, eff. July 25, 1952.

## HISTORY

Codification. "People" was changed to "Commonwealth" pursuant to the Constitution.

§ 211. Bonds legal investments for fiduciaries and security for public deposits

The bonds of the Authority shall be lawful investment, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the Government of Puerto Rico or any officer or officers thereof. — May 2, 1941, No. 83, p. 684, § 21; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.

§ 212. Tax exemptions; use of funds

(a) It is hereby found and declared that the purposes for which the Authority is created and shall exercise its powers are: the conservation of natural resources, the promotion of the general welfare, and the increase of commerce and prosperity, and are public purposes in all respects for the benefit of the Commonwealth of Puerto Rico, and that therefore the Authority shall not be required to pay any taxes or assessments on any of the property acquired by it or under its jurisdiction, control, possession, or supervision, or on its activities in the operation and maintenance of any undertaking, or on the income derived from any of its undertakings and activities. Persons who enter into contracts with the Authority shall not be subject to the government contract tax imposed by Section 16 of Act No. 85, approved August 20, 1925, as amended by Act No. 158, approved May 13, 1941;

(b) 1. — On or before August 15th of each year the Authority shall set aside from its net revenues a sum equal to five percent (5%) of its gross revenues derived from the sale of electricity to consumers during the preceding fiscal year. The sum so set aside shall be devoted by the Authority to such of its corporate purposes and in such amounts as the Legislature shall have heretofore provided or may hereafter additionally provide.

Any balance remaining from the five percent (5%) of the Authority's gross revenues derived from the sale of electricity to consumers, after separating the amounts required for the purposes authorized as hereinbefore set forth, shall be paid by the Authority to the Commonwealth Treasury on or before August 15th of each year, and the amount so paid shall constitute general funds of the Commonwealth Government.

2. — On or before August 15 of each year, the Authority shall pay the Secretary of the Treasury of Puerto Rico, from its net income and by way of contribution in lieu of taxes, a sum equal to six (6) percent of its gross income derived from the sale of electricity to consumers in the urban and rural areas of said municipality during the preceding fiscal year, to be credited to each municipality in whose urban area the Authority distributes electricity directly to the public; Provided, That the Authority may deduct from such annual payments any amount due and owed by any municipality to the Authority at the close of any fiscal year and still unpaid as of July 31 next. As used in this subsection, the term "urban area" shall mean that area of a municipality which shall have been declared urban area by the municipal government thereof prior to February 10, 1941, and in case any municipality shall have not declared its urban area prior to said date, then, for the purpose of this subsection only, the urban area of such municipality shall be that which shall be so declared by the Governor or the officer or agency designated by him upon request of either the municipality or the Authority.

3. — If the net revenues of the Authority for any fiscal year shall not be sufficient to permit the payments herein required, the payments shall be prorated to the extent of the available net revenues; Provided, That in the event such prorotation is made, the differences between the amounts paid and the amounts which would have been paid, had sufficient funds been available, shall be cancelled and shall not constitute a future charge against the net revenues of the Authority for the benefit of the Commonwealth

Treasury or the municipalities. As used in this subsection, the term "net revenues" shall mean the revenues of the Authority, for any fiscal year, which may remain after provision has been made for the operation expenses of the undertakings of the Authority and for the payment of the principal of, and the interest on, its outstanding bonds, including necessary reserves.

(c) In order to facilitate the procurement of funds by the Authority to enable it to carry out its corporate purposes, the bonds issued by the Authority and the income therefrom shall be and remain at all times exempt from taxation. — May 2, 1941, No. 83, p. 684; § 22; Apr. 8, 1942, No. 19, p. 330, § 1; May 14, 1948, No. 205, p. 608; May 31, 1950, No. 1, p. 1330; 1950 Reorg. Plan No. 12, §§ 1(2), 2; Const., art. I, § 1, art. IX, § 4; July 24, 1952, No. 6, p. 10, eff. July 25, 1952.

History

Text references. The present text of this section as amended by Act No. 40, approved May 15, 1941, and Act No. 1, of Act Aug. 29, 1952, No. 85, p. 354, referred to in subsection (a) of this section, was repealed by Act Apr. 14, 1949, No. 10, p. 88.

Codification. "People" and "Island" were changed to "Commonwealth" pursuant to the Constitution. "Treasurer" was changed to "Secretary of the Treasury" pursuant to Act July 24, 1952, No. 6. "Executive Council of Puerto Rico" was changed to "Governor or the officer or agency designated by him" pursuant to 1950 Reorg. Plan No. 12, §§ 1(2), 2.

Amendments — 1950. Subsec. (b): The 1950 Act amended paragraph (1).

— 1948. Subsec. (b): The 1948 Act amended subsec. (b).

Use of funds — Rural electrification. Sections 1-4 of Act June 4, 1960, No. 36, p. 76, eff. June 4, 1960, provided:

"Section 1. The sum set aside by the Puerto Rico Water Resources Authority out of its net revenues pursuant to the provisions contained in section 22(b)1 of Act No. 83, approved May 2, 1941, as amended [this section], shall be devoted and applied by said Authority to the following purposes in the order of priority mentioned: (a) to effect the payments which the Commonwealth is bound to make to the Puerto Rico Water Resources Authority under the contracts authorized by Act No. 191, approved May 2, 1952 [sections 221-223 of this title], Act No. 26, approved May 6, 1955 [sections 224-227 of this title], and Act No. 91, approved June 21, 1958 [sections 227a-227c of this title]; and (b) to the purposes previously prescribed by laws of the Legislature of Puerto Rico, and in the sums and order of priority provided by said laws.

"Section 2. If the sum set aside by said Authority pursuant to section 22(b)1 of Act No. 83, approved May 2, 1941, as amended, is not, in any fiscal year, including fiscal year 1959-60, sufficient to cover the payments to be made pursuant to subdivisions (a) and (b) of the preceding section 1, the Secretary of the Treasury shall make up the difference with any unencumbered available funds in the Treasury, for which purposes such funds are hereby appropriated.

"Section 3. Any sum of money paid during the year 1959 by the Authority to the Commonwealth Treasury pursuant to section 22(b)1 of Act No. 83, approved May 2, 1941, as amended, which may be needed for effecting payments under the contracts mentioned above, shall be paid back by the Secretary of the Treasury to the Puerto Rico Water Resources Authority.

"Section 4. All laws or parts of laws of the Legislature of Puerto Rico in conflict with the provisions of this act are hereby repealed."

— Southwestern Puerto Rico Project. Act May 31, 1950, No. 2, p. 1330, as amended by Act June 4, 1953, No. 35, p. 90, provided:

"Section 1. The Puerto Rico Water Resources Authority is hereby authorized to apply, out of the funds set aside in each fiscal year, corresponding to five (5) per centum of its gross revenues derived from the sale of electricity to its customers during the preceding fiscal year, as provided by Section 22(b)-(1) of the Puerto Rico Water Resources Authority Act, as amended, the sum of five hundred thousand (500,000) dollars for the fiscal year 1952-53, and an equal sum for each succeeding fiscal year up to and including the fiscal year 1979-1980, (a) to the payment of the cost of development or construction of projects heretofore or hereafter authorized and included in the construction program approved by the Governing Board of the Authority, including, but without limitation, the 'Southwestern Puerto Rico Project' (also known as the 'Lajas Valley Project'); (b) to the payment of the interest on and/or the principal of any bonds heretofore or hereafter issued by the Authority; and (c) to pledge any or all of such funds to any or all such purposes. Such funds may also be applied by the Authority to the payment of, or pledged to the payment of the interest on and/or the principal of, any obligation heretofore or hereafter contracted in connection with the development and construction of such projects comprised in the construction program approved by the Governing Board of the Puerto Rico Water Resources Authority.

"Notwithstanding the foregoing provision of this section, until the completion of the Southwestern Puerto Rico Project, the funds made available to the Authority under this Act shall be applied:

"(1) to the payment of the cost of construction and development of such project, or

"(2) to the payment of the interest on and principal of any or all bonds heretofore or hereafter issued by the Authority; Provided, however, That the amount of such payment in any fiscal year shall not exceed the amount of the interest and principal required to be paid by the Authority in such fiscal year corresponding to the Commonwealth of Puerto Rico's share of the cost of construction and development of the Southwestern Puerto Rico Project, as determined by the Authority, or

"(3) to a combination of such purposes for which the Authority may pledge such sum to one or other such purpose, or to both such purposes, or a combination thereof. (As amended June 4, 1953, No. 35, p. 90, eff. June 4, 1953.)

"Section 2. The funds heretofore made available to the Puerto Rico Water Resources Authority under Act No. 187, approved May 9, 1947, may be used by said Authority for the purposes and in the manner provided in this Act.

"Section 3. No provision of this Act shall anyway affect the provisions of Act No. 200, approved May 14, 1948.

"Section 4. Act No. 187, approved May 9, 1947, and any other law in conflict herewith, is hereby repealed.

"Section 5. This Act, being of an urgent and necessary character, shall take effect immediately after its approval."

For additional provisions concerning the Southwestern Puerto Rico Project (Lajas Valley), see sections 341-347 of this title.

— Lowlands of Coamo. Section 1 of Act May 14, 1948, No. 200, p. 572, which is cited in section 3 of the 1950 act quoted above, provided: "From the sum represented by five per cent of its gross revenues derived from the sale of electricity to consumers during each fiscal year and set aside by it in accord-

ance with the provisions of Section 22(b) of the Puerto Rico Water Resources Authority Act to be used for such purposes and in such amounts as the Legislature of Puerto Rico may provide, the Puerto Rico Water Resources Authority is hereby authorized and directed to allocate, as far as said sum will go, after setting aside the sums provided under Act No. 187 of May 9, 1947, for the development and construction of the Valle de Lajas project, the sum of \$50,000 from said revenues for the fiscal year 1947-48, the sum of \$100,000 from said income for the fiscal year 1948-49, and the sum of \$150,000 from said income for each subsequent fiscal year up to and including the fiscal year 1956-57, in order to meet, in part, the expenses and obligations said Authority may incur for the development and construction of a hydroelectric and irrigation project in the lowlands of Coamo, Puerto Rico, in the manner and to the extent outlined by said Authority."

Sections 1 and 2 of Act June 20, 1954, No. 74, p. 382, eff. June 20, 1954, provided:

"Section 1. The unexpended and unencumbered balance of the funds accumulated under Act No. 200, approved May 14, 1948, by the Water Resources Authority, to defray in part the expenses and construction cost of a hydroelectric and irrigation project in the lowlands of Coamo, is hereby transferred to the General Fund of the Treasury of the Commonwealth of Puerto Rico; Provided, That the Water Resources Authority shall retain from said accumulated funds the sum of ten thousand (10,000) dollars to continue the surveys related with the hydroelectric and irrigation project in the lowlands of Coamo.

"Section 2. Commencing on July 1, 1953, and up to June 30, 1958, the Water Resources Authority shall annually cover into the General Fund of the Treasury the amount it may set aside pursuant to the provisions of Act No. 200 of 1948. After June 30, 1958, the Authority shall again accumulate the amount specified in said Act."

Payments to municipalities. Act May 14, 1944, No. 102, p. 266, as amended May 15, 1947, No. 479, p. 1082, provided for payments to municipalities in lieu of taxes with respect to systems which had been operated for the Federal Works Agency, and with respect to the former Puerto Rico Railway, Light and Power Company and the Mayagüez Light, Power and Ice Company.

Cross references. Payments by Puerto Rico Water Resources Authority for Hydroelectric Systems of —

Isabela Irrigation Service, see section 234 of this title.

Puerto Rico Public Irrigation Service, South Coast, see section 230 of this title.

### § 213. Declaration of public utility

For the purposes of subdivision (h) of section 196 and section 203 of this title, all works, projects, and property and their accessories, which the Authority may deem necessary and convenient to use in carrying out the purposes expressed in sections 191-217 of this title are hereby declared of public utility. — May 2, 1941, No. 83, p. 684, § 23; Apr. 8, 1942, No. 19, p. 330, § 1, eff. 90 days after Apr. 8, 1942.



§ 214. Coordination and integration of irrigation and hydroelectric projects

(a) With a view to the coordination and integration of irrigation and/or hydroelectric projects and their activities, at present existing or that may be developed in the future, all powers, duties, functions, obligations, and responsibilities which prior to the enactment of sections 191-214 of this title were vested in, conferred or imposed upon the Chief Engineer of the Irrigation Service, the Secretary of Public Works and the Executive Council of Puerto Rico, or any of them under the Public Irrigation Law approved September 18, 1908, sections 251-259 of this title, and laws amendatory thereof or supplementary thereto, heretofore or hereafter enacted by the Legislature of Puerto Rico, providing for the construction and operation of a public irrigation system, and under those provisions of Act No. 58, approved April 30, 1928, applicable to the Hydroelectric System of the Puerto Rico Irrigation Service, South Coast, are hereby transferred to and conferred and imposed upon the Authority. The Authority shall administer said laws in conformity with the provisions thereof and shall be governed by them in the operation, maintenance, repair, reconstruction, construction of extensions, improvements, and enlargement of the works or systems constructed and operated and maintained pursuant to those laws; and to the extent that the exercise of such power does not impair the obligations of any contract of the Commonwealth of Puerto Rico, the Authority shall have power, notwithstanding anything to the contrary in said Act No. 58, to fix the basis for allocating operating expenses to the several systems operated by the Authority.

(b) In carrying out its duties under the next preceding paragraph, the Authority shall pay directly all costs and expenses incurred by it. The Authority shall be reimbursed for all such costs and expenses, including a fair share of the Authority's own overhead and operating expenses attributable to the Puerto Rico Irrigation Service, South Coast, as determined pursuant to subsection (a) above, from the funds available in the Commonwealth Treasury for the operation and maintenance, repair, reconstruction, construction of extensions, improvements and enlargements of the works or systems, constructed and operated and maintained pursuant to the Public Irrigation Law of 1908, approved September 18, 1908, sections 251-259 of this title and laws amendatory thereof or

supplementary thereto. There shall be advanced to the Authority, from time to time, from said Irrigation funds in the Treasury, amounts sufficient to provide a working fund adequate at all times to meet all of said costs and expenses promptly. Said funds shall be held and administered by the Authority in the same manner as its own funds but shall be used by it only for the payment of said costs and expenses.

(c) Upon authorization of the Legislature of Puerto Rico, the Authority, when it deems it advisable in the public interest, may take over and operate any irrigation and/or hydroelectric project existing and owned, or that may be developed or acquired in the future, by the Commonwealth of Puerto Rico. — May 2, 1911, No. 83, p. 684, § 24; Apr. 8, 1942, No. 19, p. 330, § 1; May 15, 1943, No. 191, p. 684; Const., art. I, § 1, art. IX, § 4; July 24, 1952, No. 10, p. 22; June 10, 1959, No. 27, p. 86, eff. June 10, 1959.

#### HISTORY

Codification. "People" and "Insular" were changed to "Commonwealth" pursuant to the Constitution. "Auditor" was changed to "Secretary of the Treasury" pursuant to Act July 24, 1952, No. 10.

Amendments — 1959. Subsec. (a): The 1959 Act amended subsec. (a) to substitute "Secretary of Public Works" for "Commissioner of Interior" and to delete requirement of prior approval of basis of allocation by Secretary of the Treasury.

Consolidation of hydroelectric systems. Act Apr. 30, 1928, No. 58, p. 412, referred to in this section, provided:

"Section 1. Pursuant to the plan of establishing interconnection among the different generating plants and electric power transmission and distribution systems which under the provisions of, and with funds created by, the laws of Porto Rico known as the Public Irrigation Law approved September 18, 1908 [sections 251-259 of this title], the Isabella Public Irrigation Law approved June 19, 1919 [sections 301-315 of this title], and the Act for the Development of the Water Resources, approved April 29, 1927 [see note under section 191 of this title], have been built and are owned and operated by the Insular Government, including such like plants and systems as it may hereafter build or acquire and place in operation, and in order that each of said systems may share the benefits derivable from a common organization and from a fuller and more diversified utilization of electric power under a general system for the island, the Commissioner of the Interior, subject to the provisions of this Act and when he deems it advisable, is hereby authorized to transfer and place all matters relative to the operation and service of each of said systems, including the generation, distribution and sale of electric power, as well as the surveys and technical direction of new constructions, extensions and improvements, under such direction and management as may have been organized to handle the activities created by the Act for the Development of the Water Resources, approved April 29, 1927.

"Section 2. All disbursements on account of maintenance and operation of the general system of generating plants and electric power transmission and distribution lines, including salaries of the directing, managing, office and

technical personnel; of generating plants and sub-station operators, line patrolmen and other auxiliary personnel; cost of necessary materials and supplies, and in general, all such current expenses as may be necessary for said adequate maintenance and operation, shall be made directly out of the corresponding fund available to Utilization of the Water Resources, it being understood that in said expenses of maintenance and operation are comprised only such current expenses of inspection, cleaning and continuous attention to all parts of the equipment and of the works as may be necessary to repair the system from the current and natural effects resulting from the operation, but they do not include any extraordinary expenses of maintenance and repair required to extend the life of equipment and of the works, or to correct damages due to other causes not arising from the operation, or to restore parts which have been damaged or deteriorated by the elements. These extraordinary expenses shall be met in the manner hereinafter prescribed.

"To compensate and reimburse the Utilization of the Water Resources for such expenses as may be originated by the maintenance and operation of the aforesaid systems of the Government, each of said systems, namely, The Hydroelectric System of the Irrigation Service of the Southern Coast and Hydroelectric System of the Irrigation Service of Isabela, and in general, all other electric systems which may come into the possession of the Insular Government under some provision or fund distinct from those of the Act for the Development of the Water Resources, and that may be incorporated under the general system of the Island, shall pay monthly to the Utilization of the Water Resources for each kilowatt-hour distributed and sold within the operating district reserved for each system as described in detail in the following section, an amount which shall be fixed in accordance with the provisions of Section 5 of this Act.

"Section 3. The operating districts for each of the systems now constructed and under construction and in operation or proposed to enter into operation by the Insular Government, which are the Hydroelectric System of the Irrigation Service of the Southern Coast, constructed and operated in accordance with the Public Irrigation Law approved September 18, 1908, and the Hydroelectric System of the Irrigation Service of Isabela, constructed according to the Isabela Public Irrigation Act, approved June 19, 1919, are hereby established as limited by the boundaries which had heretofore been set for the operation of either system, to wit: The operating district for the Hydroelectric System of the Irrigation Service of the Southern Coast, comprising the municipalities of Maunabo, Patillas, Arroyo, Guayama, Salinas, Santa Isabel, Coamo, Juana Diaz and Villalba; and the operating district for the Hydroelectric System of the Irrigation Service of Isabela, comprising the municipalities of Hatillo, Camuy, Quebradillas, Isabela, Aguadilla, Aguada, Rincón and Añasco.

"Section 4. The Irrigation Service of the Southern Coast and the Isabela Irrigation Service shall each retain the ownership of the plant and equipment in their respective systems, and all extraordinary expenses for maintenance and repair not comprised within those which must be paid out of the fund for Utilization of Water Resources, as specified under Section 2 of this Act, as well as expenses for new constructions, enlargements, improvements and extensions of lines and branches within their respective districts of operation, shall be paid out of funds which each of said Services shall have available for such purposes. All expenses for surveys and for technical and administrative direction incurred by Utilization of the Water Resources to carry out the said repairs, new constructions, enlargements, improvements and extensions of lines and branches within the operating district of either Service shall be reim-

bursed out of the fund which each of said Services shall have available for such purposes.

"Section 5. Upon effecting the transfer of either system into the general system of the Utilization of the Water Resources, pursuant to the provisions of Section 1 of this Act, all sales of electric energy and power service within the respective operating district of the Hydroelectric System of the Irrigation Service of the Southern Coast and of the Hydroelectric System of the Irrigation Service of Isabela shall be made by Utilization of the Water Resources for account of each of said Services and in accordance with such tariff as shall be in force in the operating district of each respective Service; Provided, That all existing contracts for the supply of electric energy and power service coming from one or the other system herein mentioned and entered into between the People of Porto Rico and the respective consumers shall continue in force as though they had been originally entered into to cover the supply of energy and electric service from the general system of Utilization of the Water Resources.

"The receipts from the said sale shall be covered into the corresponding fund belonging to Utilization of the Water Resources, and each month Utilization of the Water Resources shall credit each service with the amount of the receipts derived from the sale of energy and electric power service within the respective operating district, after deducting and retaining from the amount of the said receipts for compensation and reimbursement, as stipulated in the second paragraph of Section 2 of this Act, a sum equal to the total number of kilowatt-hours sold and collected, multiplied by the amount to be retained for each kilowatt-hour, which amount shall be fixed as hereinafter determined; Provided, That in those cases where sales are made under monthly flat rate contracts, the number of kilowatt-hours to be considered in each case for purposes of this deduction and retention shall be the total number which in accordance with the rated capacity of the electric installation authorized in the contract may be consumed by the said installation operating twenty-four hours per day.

"The amount of receipts to be retained by Utilization of the Water Resources for each kilowatt-hour distributed and sold shall be fixed in the following manner:

"The Commissioner of the Interior shall prepare annually and shall submit to the Executive Council for approval, a budget of the necessary expenses for the maintenance and operation during the ensuing fiscal year, of the Hydroelectric System of the Irrigation Service of the Southern Coast, including in said expenses the salaries of the personnel directly engaged in the production, distribution, inspection and sale of electric energy within its operating district, plus the sundry expenses of materials and supplies required for the operation of the system, plus a part of the general expenses and salaries of the technical, administrative and office personnel of the organization of Utilization of the Water Resources which part shall be proportional to the volume of sales of electric energy estimated to be made within the district as compared with the total sales estimated to be made by the general system under the administration of the said Utilization of the Water Resources. The said budget shall also include an estimate of the number of kilowatt-hours expected to be the net production (after deducting the consumption of plant auxiliaries) of the generating plants owned by the Hydroelectric System of the Irrigation Service of the Southern Coast during the ensuing fiscal year. From this estimated net production there shall be deducted as probable losses in transmission, transformation and distribution twenty-five (25) percent and the seventy-five (75) percent remaining shall constitute the number of kilowatt-hours by which

shall be divided the total of the expenses included in the said budget, and the resulting quotient shall be the amount of receipts which shall be retained by Utilization of the Water Resources for each kilowatt-hour distributed and sold in the operating district of the Hydroelectric System of the Irrigation Service of the Southern Coast.

"Likewise, the Commissioner of the Interior shall prepare annually and shall submit to the Executive Council for approval, a budget of the necessary expenses for the maintenance and operation during the ensuing fiscal year, of the Hydroelectric System of the Isabela Irrigation Service, including in the said expenses the salaries of the personnel directly engaged in the production, distribution, inspection and sale of electric energy within its operating district, plus the sundry expenses for materials and supplies required for the operation of the system, plus a part of the general expenses and salaries of the technical, administrative and office personnel of the organization of Utilization of the Water Resources, which part shall be proportional to the volume of sales of electric energy estimated to be made within the district, as compared with the total sales estimated to be made by the general system under the administration of the said Utilization of the Water Resources. The said budget shall also include an estimate of the number of kilowatt-hours expected to be the net production (after deducting the consumption of plant auxiliaries) of the generating plants of the Hydroelectric System of the Isabela Irrigation Service during the ensuing fiscal year. From this estimated net production there shall be deducted as probable losses in transmission, transformation and distribution, twenty-five (25) percent and the remaining seventy-five (75) percent shall constitute the number of kilowatt-hours by which shall be divided the total of the expenses included in the budget, and the resulting quotient shall be the amount of receipts which shall be retained by Utilization of the Water Resources for each kilowatt-hour distributed and sold in the operating district of the Hydroelectric System of the Isabela Irrigation Service.

"Section 6. The electric energy imported from the general system of the Utilization of the Water Resources into the operating district of the Irrigation Service of the Southern Coast, and into the operating district of the Isabela Irrigation Service to supply the consumption that there may be in either district in excess of the production of its respective generating plants, shall be measured at the points where the lines of the system belonging to Utilization of the Water Resources connect with the lines of the system belonging to the Irrigation Service of the Southern Coast or of the Isabela Irrigation Service, as the case may be, and the value thereof shall be credited monthly from the respective Irrigation Fund to the Utilization of the Water Resources fund at a price per kilowatt-hour that shall be fixed by the Executive Council of Puerto Rico.

"The electric energy from the Hydroelectric System of the Irrigation Service of the Southern Coast or from the Hydroelectric System of the Isabela Irrigation Service which shall be transmitted outside of the operating district of either Service into the general system of Utilization of the Water Resources to supply the demand of the system and at the same time to provide use for the excess production of their respective generating plants over what may be required to take care of the consumption in their respective operating districts, shall be measured at the points where the lines of the system belonging to Utilization of the Water Resources connect with the lines of the system belonging to the Irrigation Service of the Southern Coast or of the Irrigation Service of Isabela, as the case may be, and the value thereof shall be credited monthly from the Fund of Utilization of the Water Resources to

the respective Irrigation Funds at a price per kilowatt hour that shall be fixed by the Executive Council of Porto Rico.

"Section 7. All laws or parts of laws in conflict herewith are hereby repealed.

"Section 8. This Act shall take effect ninety (90) days after its approval."

Electric power system of Vieques. Act June 22, 1961, No. 110, p. 219, eff. July 1, 1961, provided for the conveyance of the electric power system of the island of Vieques to the Puerto Rico Water Resources Authority, with all property, rights and obligations, and provided the necessary funds for such conveyance.

Cross references. Conveyance to Puerto Rico Water Resources Authority of —

Hydroelectric System of Isabela Irrigation Service, see sections 232-237 of this title.

Hydroelectric System of Puerto Rico Public Irrigation Service, South Coast, see sections 228-231 of this title.

### § 215. Agreement of Commonwealth Government

The Commonwealth Government does hereby pledge to, and agree with, any person, firm or corporation, or any Federal, Commonwealth or State agency, subscribing to or acquiring bonds of the Authority to finance in whole or in part any undertaking or any part thereof, that it will not limit or alter the rights or powers hereby vested in the Authority until all such bonds at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth Government does further pledge to, and agree with, the United States and any other Federal agency that in the event that any Federal agency shall construct, extend, improve, or enlarge, or contribute any funds for the construction, extension, improvement, or enlargement of, any project for the development of the water resources in Puerto Rico or any portion thereof, the Commonwealth Government will not alter or limit the rights or powers of the Authority in any manner which would be inconsistent with the continued maintenance and operation of the water resources development or the extensions, improvement, or enlargement thereof, or which would be inconsistent with the due performance of any agreements between the authority and any such Federal agency; and the Authority shall continue to have and may exercise all rights and powers herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of sections 191-217 of this title and the purpose of the United States or any other Federal agency in constructing, extending, improving or enlarging, or contributing funds for the construction, extension, improvement or enlargement of, any water resources development or any portion thereof. — May 2, 1911, No.

82, p. 684, § 25; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1, eff. July 25, 1952.

HISTORY

Codification. "Insular" was changed to "Commonwealth" pursuant to the Constitution.

§ 216. Injunctions

An injunction shall not be granted to prevent the application of sections 191-217 of this title or any part thereof. — May 2, 1941, No. 83, p. 684, § 26; Apr. 8, 1942, No. 19, p. 330, 1, eff. 90 days after Apr. 8, 1942.

§ 217. Inconsistent provisions of other acts superseded

Insofar as the provisions of sections 191-217 of this title are inconsistent with the provisions of any other Act of the Legislature of Puerto Rico, the provisions of sections 191-217 of this title shall be controlling and no law heretofore or hereafter passed governing the administration of the Commonwealth Government or any parts, offices, bureaus, departments, commissions, dependencies, municipalities, branches, agents, officers, or employees thereof shall be construed to apply to the Authority unless so specifically provided, but the affairs and business of the Authority shall be administered as provided herein. — May 2, 1941, No. 83, p. 684, § 27; Apr. 8, 1942, No. 19, p. 330, § 1; Const., art. I, § 1, eff. July 25, 1952.

HISTORY

Codification. "Insular" was changed to "Commonwealth" pursuant to the Constitution.

ANNOTATIONS

1. Repeal of J. R. No. 36 of 1927. See note 1 under section 191 of this title.

§ 218. Employees' rights as to retirement or pension plans

Any employee of the Puerto Rico Water Resources Authority who is a member of, and is covered by, any retirement or pension plan created by the Legislature of Puerto Rico for officials and employees, or any groups of employees of the Commonwealth Government of Puerto Rico, may select one of the following two alternatives:

(a) Within a period of three months beginning on the date of approval of this section, to withdraw from any pension plan established by the Legislature of Puerto Rico of which he may be a member; and he shall be granted the same rights, privileges, and obligations granted to officials and employees of the Commonwealth Government who resign, or are separated from, their offices; or

(b) To continue as a member of the retirement or pension plan established by the Legislature of Puerto Rico, and of which he may be a member, in which case the Puerto Rico Water Resources Authority shall pay monthly to the retirement or pension fund of which said employee may be a member, the same amount which, as a regular contribution, said Water Resources Authority would contribute for said official or employee to the retirement system established by said Authority, beginning on the date when said retirement system was established or on the date when said official or employee is or becomes an official or employee of the Authority otherwise entitled to become a member of the retirement system thereof, as the case may be, and until such official or employee has completed his retirement qualifications and retires, or retires due to physical disability or for any other reason provided for in the retirement or pension plan established by the Legislature of Puerto Rico, and of which he may be a member. — May 13, 1947, No. 351, p. 674, § 1; Const., art. I, § 1, eff. July 25, 1952.

#### HISTORY

**Codification.** "Insular" was changed to "Commonwealth" pursuant to the Constitution.

**Cross references.** This section affects the prior provisions of section 197 of this title.

#### § 219. — Time for selection

Any official or employee of the Government of Puerto Rico, or of any instrumentality or public corporation established by the Legislature of Puerto Rico, who belongs to any pension or retirement plan established by the Legislature of Puerto Rico, and who is transferred or appointed to a position in the Puerto Rico Water Resources Authority, shall be entitled to select, within a period of six months following the date of his employment in said Authority, one of the two alternatives provided in section 218 of this title. — May 13, 1947, No. 351, p. 674, § 2, eff. May 13, 1947.

#### § 220. — Membership in two plans prohibited

No provision of sections 218-220 of this title shall be construed in the sense than an employee of the Puerto Rico Water Resources Authority may simultaneously belong to a retirement or pension plan established by the Legislature of Puerto Rico and to the retirement system established by the Puerto Rico Water Resources Authority. — May 13, 1947, No. 351, p. 674, § 3, eff. May 13, 1947.



§ 221. Rural electrification — Contract for payments by Commonwealth

For the purpose of accelerating the construction of additional electric distribution lines in the rural district of Puerto Rico by the Puerto Rico Water Resources Authority, the Commonwealth Government is hereby authorized to enter into a contract with the Puerto Rico Water Resources Authority providing for the payment by the Commonwealth Government to said Authority for the services rendered to the Government by maintaining its lines available to supply electric power in connection with the rural electrification program. Said contract shall be executed in behalf of the Government by the Commissioner of Agriculture and shall provide for the payment to the Authority for the services rendered, as above expressed, at the rates fixed, taking into consideration the expenses incurred in the construction, repair, maintenance and operation of its facilities and projects in relation to the service thus rendered, and the income to be derived from the rural electrification program; Provided, That said contract shall not extend over a period beyond twenty (20) years, and that the sum total to be paid by the Commonwealth Government in any one fiscal year shall not exceed three hundred and seventy-five thousand (375,000) dollars. It is further hereby provided that the Water Resources Authority shall make the pertinent contractual arrangements with the Aqueduct and Sewer Authority for the extension of the rural electrification program to the island of Vieques.

Payment for this service shall be made after the same shall have been rendered and the periods of payment shall be fixed in the contract. — May 2, 1952, No. 191, p. 404, § 1; Const., art. I, § 1, eff. July 25, 1952.

HISTORY

**Text references.** The reference to the Commissioner of Agriculture in this section appears to mean the former Commissioner of Agriculture and Commerce who became Secretary of Agriculture and Commerce under Act July 24, 1952, No. 6, p. 10, eff. July 25, 1952. A Department of Commerce with a Secretary of Commerce at its head, was created by Act July 19, 1960, No. 132, p. 385. See sections 431-440 of Title 3 and Const., Art. IX, § 8.

**Codification.** "Insular" was changed to "Commonwealth" pursuant to the Constitution.

**Statement of motives.** Act May 2, 1952, No. 191, contained the following statement of motives:

WHEREAS, the Puerto Rico Water Resources Authority was established for the purpose of aiding in the development and utilization of the water resources and power of Puerto Rico and for the purpose of making available to

the inhabitants of the Island, in the broadest economic form, the benefits thereof;

"WHEREAS, the construction by the Puerto Rico Water Resources Authority of electric distribution lines in the rural district of Puerto Rico will greatly benefit the economy of the Island, will aid in promoting the general welfare, will further commerce and prosperity and will increase the value of property in the rural district of Puerto Rico, for the benefit of the people of Puerto Rico in general;

"WHEREAS, the Puerto Rico Water Resources Authority is authorized under the provisions of its organic act, as amended, to construct electric distribution lines in the rural district of Puerto Rico and to determine the charges to be made for the use of said lines and for the service rendered by them, maintaining same available to supply electric power;

"WHEREAS, the Puerto Rico Water Resources Authority, making use of funds from time to time appropriated for such purposes by the Legislature of Puerto Rico, has been effectuating a program of construction of electric distribution lines in the rural district of Puerto Rico which lacked electric services; and

"WHEREAS, it will be in furtherance of the public interest to expedite and extend such construction program, in order that the benefits thereof may be extended to the inhabitants of Puerto Rico more rapidly;

"Now, THEREFORE, *Be it enacted* [etc.]"

Appropriations Act Apr. 16, 1946, No. 335, p. 902, was among the acts appropriating funds for rural electrification.

#### § 222. — Payments under contract

The Secretary of the Treasury of Puerto Rico is hereby authorized and directed to pay to the Puerto Rico Water Resources Authority, on the dates fixed in the contract and upon settlement warrants certified by the Secretary of the Treasury of Puerto Rico, the amounts of money payable under the contract for services rendered as above explained. — May 2, 1952, No. 191, p. 404, § 2; July 24, 1952, Nos. 6, 10, pp. 10, 22, eff. July 25, 1952.

#### HISTORY

Codification. "Treasurer" and "Auditor" were changed to "Secretary of the Treasury" pursuant to Acts July 24, 1952, Nos. 6 and 10.

#### § 223. — Planning of projects

The rural electrification projects to be undertaken by the Authority, in order to furnish the service contemplated by sections 221-223 of this title, shall be subject to the provisions of the Puerto Rico Planning Board Act, sections 1-30 and 81-86 of Title 23. — May 2, 1952, No. 191, p. 404, § 3, eff. May 2, 1952.

#### § 224. Additional rural electrification contract of 1955 — Authorization

For the purpose of continuing the electric distribution lines

construction program in the rural district of Puerto Rico by the Puerto Rico Water Resources Authority, the Secretary of Agriculture and Commerce is hereby authorized, in behalf and in representation of the Commonwealth of Puerto Rico, to enter into a contract with the Puerto Rico Water Resources Authority for the payment to said Authority for the services rendered to the Commonwealth by maintaining its lines available to supply electric power in connection with the rural electrification program. Said contract shall provide for the payment to the Authority for the services rendered, as above expressed, at the rates fixed, taking into consideration the expenses incurred by said Authority in the construction, repairing, maintenance and operation of its facilities and properties in relation to the service thus rendered, and the income to be derived from the operation of the electric distribution lines constructed by the Authority in the rural zone of Puerto Rico under the program covered by said contract; Provided, That said contract shall not extend for a period over twenty-five (25) years from the date of construction of each distribution line in the rural zone, and that the sum total the Commonwealth treasury shall pay during any fiscal year for the service rendered as above stated shall not exceed four hundred thousand (400,000) dollars.

Payment for this service shall be made after the same has been rendered, and the dates for payment shall be fixed in the contract. — May 6, 1955, No. 26, p. 90, § 1, eff. 90 days after May 6, 1955.

## HISTORY

Department of Commerce. See sections 431-440 of Title 3, and Const., art. IX, § 8.

## § 225. — Payments under additional contract

The Secretary of the Treasury is hereby authorized and ordered to pay to the Water Resources Authority, on the dates fixed in the contract referred to in section 224 of this title, and through the corresponding orders of payment, the amounts of money payable in accordance with the terms of said contract for services rendered in the manner already stated. — May 6, 1955, No. 26, p. 90, § 2, eff. 90 days after May 6, 1955.

## § 226. — Contract as additional to existing contract

The contract authorized by sections 224-227 of this title is additional to the one authorized by sections 221-223 of this title. — May 6, 1955, No. 26, p. 90, § 3, eff. 90 days after May 6, 1955.

§ 227. — Planning of additional projects

The rural electrification projects to be carried out by the Authority under the new contract herein authorized, for the purpose of furnishing the service contemplated by sections 221-227 of this title, shall be subject to the provisions of the Puerto Rico Planning Board laws, sections 1-30 and 81-86 of Title 23, May 6, 1955, No. 26, p. 90, § 1, eff. 90 days after May 6, 1955.

§ 227a. Additional rural electrification contract of 1958 — Authorization

For the purpose of continuing the program of the construction of electric distribution lines in the rural district by the Water Resources Authority, the Secretary of Agriculture and Commerce is hereby authorized in behalf and in representation of the Commonwealth to enter into a contract with the Water Resources Authority for the payment to said Authority for services rendered to the Commonwealth in maintaining its lines available for the supplying of electric power in connection with the Rural Electrification Program. Said contract shall provide for the payment to the Authority for the services rendered, as above expressed, at the rates fixed, taking into consideration the expenses incurred by said Authority in the construction, repair, maintenance and operation of its facilities and properties in relation with the service thus rendered and the income to be derived from the operation of electric distribution lines constructed by the Authority in the rural district under the program comprised by said contract; Provided, That said contract shall not extend over a period of thirty (30) years after the construction of said lines and that the total sum to be paid by the Commonwealth Treasury in any one fiscal year for the service rendered as above expressed shall not exceed nine hundred seventy-five thousand (975,000) dollars.

Payment for this service shall be made after the same shall have been rendered and the periods of payment shall be fixed in the contract. — June 24, 1958, No. 91, p. 200, § 1, eff. July 1, 1958.

HISTORY

Department of Commerce. See sections 431-440 of Title 3, and Const., art. IX, § 8.

§ 227b. — Payments under additional contract

The Secretary of the Treasury is hereby authorized and directed to pay to the Water Resources Authority on the dates fixed in the

contract to which section 227a of this title refers and upon the proper settlement warrant, the amounts of money payable pursuant to the terms of said contract for services rendered as above expressed. — June 24, 1958, No. 91, p. 200, § 2, eff. July 1, 1958.

§ 227c. — Contract as additional to existing contracts

The contract authorized by sections 227a-227d of this title shall be in addition to those authorized by sections 221-223 and 224-227 of this title. — June 24, 1958, No. 91, p. 200, § 3, eff. July 1, 1958.

§ 227d. — Planning of additional projects

The rural electrification projects to be undertaken by the Authority under the new contract authorized by sections 227a-227d of this title for the purpose of furnishing the service contemplated hereby shall be subject to the provisions of the Planning Board Act. — June 24, 1958, No. 91, p. 200, § 4, eff. July 1, 1958.

HISTORY

Text references. The "Planning Board Act", referred to in the text, presumably refers to the Puerto Rico Planning and Budget Act, which is classified to sections 1-30 and 81-86 of Title 23.

§ 227e. Acceleration of rural electrification program

(a) For the purpose of accelerating the Rural Electrification Program which, as a public service for the development of the economy of Puerto Rico in the rural district is being rendered by the Water Resources Authority to the Commonwealth of Puerto Rico, said Authority is hereby authorized to construct new electric power distribution lines in the rural district of our Island.

(b) The cost of the construction, repair, maintenance and operation of the facilities and properties of the Water Resources Authority in relation with the Rural Electrification Program shall be paid annually to said Authority by the Commonwealth in the manner hereinbelow provided and taking into consideration the expenses incurred on that score and the income to be derived from the operation of the new electric power distribution lines constructed by the Authority in the rural district; Provided, That said payments shall not extend beyond a period of thirty (30) years after the construction of said lines and that the total sum to be paid by the Commonwealth to the Authority in any one fiscal year shall not exceed nine hundred fifty-five thousand (955,000) dollars; Provided, finally, That to determine the annual amount of such payments there shall be applied the formula contained in the contract executed

between the Authority and the Secretary of Agriculture, in behalf of the Commonwealth, on February 9, 1959, effective July 1, 1958, by mandate of sections 227a to 227d of this title, relative to rural electrification.

(c) The Water Resources Authority is hereby authorized to withhold, on and after the fiscal year 1963 and in succeeding fiscal years, from the five per cent of its gross income which it annually sets aside by virtue of section 212 (b) 1 of this title, such sums as may be necessary to make the payment to which subsection (b) of this section refers. Such withholdings of funds shall be in addition to and shall enjoy the same priority of the withholdings of funds authorized under section 1 of Act No. 46 of June 4, 1960 with relation to the rural electrification projects authorized under sections 221 to 223, 224 to 227, and 227a to 227d of this title.

(d) Should the sum set aside by the Water Resources Authority pursuant to section 212(b) 1 of this title, be insufficient in any one fiscal year, including fiscal year 1963, to cover the payments to which subsection (b) of this section refers, the Secretary of the Treasury shall cover the deficiency from any unencumbered funds available in the Commonwealth treasury and which are hereby appropriated for said purposes. — May 29, 1963, No. 30, §§ 1-4, eff. May 29, 1963.

*Text references.* Act No. 46 of June 4, 1960, referred to in subsection (c), relating to use of funds by the Water Resources Authority, is set out in a note under section 212 of this title.

*Codification.* Subsections (a)-(d) are sections (1)-(4) respectively of Act May 29, 1963, No. 30. In the English version, the figure in parentheses "(995,000)" was changed to "(955,000)" to correct an obvious typographical error and to conform the figures to the preceding words and to the Spanish version.

§ 228. Hydroelectric System of Puerto Rico Public Irrigation Service, South Coast, conveyed to Puerto Rico Water Resources Authority — Statement of motives

(a) The "Hydroelectric System of the Puerto Rico Public Irrigation Service, South Coast", includes the hydroelectric works and transmission and distribution lines and all facilities making up the electric power system constructed or acquired pursuant to the provisions of the Public Irrigation Law approved September 18, 1908, sections 251-259 of this title, and laws amendatory thereof or supplementary thereto, hereinafter referred to as the "Public Irrigation Act," and includes, also, all improvements, extensions and additions thereto constructed since the effective date of the Puerto Rico Water Resources Authority Act, sections 191-217 of this title.

all of which shall hereinafter be collectively designated as "the Hydroelectric System," and all of which works, lines, facilities, improvements, extensions, and additions are now operated by the Puerto Rico Water Resources Authority, hereinafter designated as the "Authority," under the provisions of section 214 of this title, the books and accounts of the said System being kept separately by the Authority in accordance with the requirements of section 202 of this title.

(b) The operation by the Authority of the Hydroelectric System under the present set-up does not adequately meet the requirements of the district served by said System, and the integration of said System with the present electric properties of the Authority will provide the means, not otherwise available, for expanding and improving the properties now making up the Hydroelectric System and thus meeting the ever increasing demand for electric power service in the district.

(c) The conveyance of the Hydroelectric System to the Authority and its integration with the electric properties of the Authority will permit further expansion and improvement of the System so conveyed and will improve the electric power service in the district.

(d) The average annual net revenues deriving from the operation of the Hydroelectric System during the five fiscal years which ended on June 30, 1953, was approximately \$200,000. These revenues have permitted the lowering of the amount of the special assessment levied on the lands included in the Irrigation District, South Coast. A sum corresponding to the said two hundred thousand (200,000) dollars will continue to be provided for the same purposes, pursuant to the provisions of sections 228-231 of this title. The operation of the Hydroelectric System by the Authority as an independent system, with its present limitations, will not produce in subsequent fiscal years average revenues in excess of the average annual net revenues derived during the five fiscal years which ended on June 30, 1953.

(e) When the Hydroelectric System is integrated with the electric properties of the Authority, the Authority shall, under the provisions of the Puerto Rico Water Resources Authority Act, sections 191-217 of this title, be under obligation to set aside, for payment into the Commonwealth Treasury, a sum equivalent to five (5) per cent of the gross revenues deriving from the sale of electricity to consumers in the municipalities included in the area of the Puerto Rico Public Irrigation Service, South Coast, which

five (5) per cent is estimated at approximately fifty thousand (50,000) dollars. The Puerto Rico Public Irrigation Service, South Coast, has never had to pay that sum.

(f) When the conveyance of the Hydroelectric System to the Authority takes place, the setting aside and allocating of the sum of (1) \$50,000 (the sum estimated in finding (e) above) as provided in section 230 of this title, and (2) the contributing by the Authority, from its revenues, of the annual sum of \$150,000 as provided by section 230 of this title, will together equal the net receipts which would have resulted from the operation of the Hydroelectric System and which the Secretary of the Treasury would have had to use for determining the total amount of the special assessments to be levied on the lands at present included in the Irrigation District, South Coast, pursuant to the provisions of the Public Irrigation Act; sections 251-259 of this title.

(g) In the fulfilment of its duties under the provisions of section 241(b) of this title, the Authority has advanced to the Puerto Rico Public Irrigation Service, South Coast, funds, not as yet repaid, amounting to approximately \$292,300 by the close of operations on June 30, 1954, and the value of the properties the title to which is vested in the Authority under the provisions of sections 228-231 of this title is far in excess of the amount so advanced.

(h) Under the provisions of the Puerto Rico Water Resources Authority Act, sections 191-217 of this title, the Authority may, whenever it deems it advisable in the public interest, take over and operate the Hydroelectric System upon the authorization of the Legislature of Puerto Rico.

(i) The Authority has found, and such findings have the approval of its Consulting Engineers, who were employed pursuant to the provisions of the Trust Indenture dated January 1, 1947 by and between the Authority and the First National City Bank of New York, (1) that in case the Authority issues its bonds under the provisions of said Trust Indenture in such an aggregate principal amount, bearing interest at such rate, and maturing on such dates as to render same equivalent to annual payments to the holders of such bonds, in the way of principal and interest, in the amount of \$150,000 a year over a period of twenty (20) years (which is the annual burden imposed on the Authority by sections 228-231 of this title as an item of Operating Expenses to be paid by it), and sells such bonds at par in order to raise funds to acquire by purchase the Hydroelectric System, the purchase price



of \$150,000 a year for twenty (20) years would be a reasonable price to pay for said properties; (2) that the acquisition of the Hydroelectric System would, in the opinion of the said Consulting Engineers, preserve, develop and improve the "System" as such word is defined in said Trust Indenture; (3) that the additional annual revenues of the "System" (as so defined) will be at least \$200,000 over and above the additional annual expenses resulting from such acquisition, figured as provided by section 209 of the said Trust Indenture; (4) that after adding such additional annual revenues to the average annual revenues of the "System", computed as provided in section 209(e) (i), the percentage obtained by dividing such total amount by the maximum amount of the principal and interest payable in any subsequent fiscal year on the score of all the bonds theretofore issued under the provisions of the said Trust Indenture and then outstanding and all such additional bonds as it might be required to be countersigned and delivered in order to obtain the money for the said purchase price of the Hydroelectric System, should same be purchased in this fashion, would not be less than one hundred and fifty percent (150%); (5) that the conveyance of the Hydroelectric System to the Authority under the provisions of sections 228-231 of this title and subject to the conditions hereof, in lieu of the purchase of the Hydroelectric System through the issuance and sale of bonds of the Authority, is acceptable to the Authority, the effect of such conveyance being, substantially, the same as if the Authority had issued its bonds for the acquisition by purchase of the Hydroelectric System and equally profitable to the Authority; and (6) that it is advisable in the public interest for the Authority to take over and operate the Hydroelectric System. — June 20, 1955, No. 83, p. 314, § 1, eff. July 1, 1955.

§ 229. — Conveyance and integration of Hydroelectric System; protection of irrigation rights

All property, real, personal, mixed, tangible and intangible, and all funds, appropriations, accounts, books, records, rights, franchises, contracts, obligations and privileges of whatever kind and description, appertaining to and making up the Hydroelectric System shall be conveyed and are hereby conveyed to and vested in the Authority, and on and after the effective date of such conveyance the said properties shall be integrated with the electric properties now owned by the Authority and shall thereafter be

operated as an integral part thereof. The Registrars of Property shall, upon certification of the Authority approved by the Secretary of Public Works, register in the name of the Authority, fee free, the properties conveyed by sections 228-231 of this title. No provisions of sections 228-231 of this title shall in any wise affect the right of the lands served by the Puerto Rico Public Irrigation Service, South Coast, to receive water for irrigation purposes and to enjoy the benefits thereof in the same measure and to the same extent as they did prior to the approval of such sections, and such works of the Hydroelectric System hereby conveyed to the Authority as are jointly used for the storage and conveyance of water for irrigation purposes and for the generation of electric power shall remain affected with their obligation toward the said lands; Provided, however, That after such conveyance has taken place the Authority shall, once the provisions hereof are complied with, have the utilization and application of such waters for all such purposes as may be necessary for the exercising by the Authority of its powers under the Puerto Rico Water Resources Authority Act, sections 191-217 of this title. — June 20, 1955, No. 83, p. 314, § 2, eff. July 1, 1955.

§ 230. — Payments by Puerto Rico Water Resources Authority

After the properties of the Hydroelectric System are conveyed to the Authority as provided in section 229 of this title, beginning with the fiscal year commencing July 1, 1955 and in each fiscal year thereafter until the principal of and the interest on all of the present outstanding bonded indebtedness incurred by the Commonwealth of Puerto Rico for the account of the Puerto Rico Public Irrigation Service, South Coast, shall have been paid or until provision for the payment thereof shall have been made, the Authority shall

(1) set aside from its gross revenues, as an item of Current Operating Expenses of the Authority, the sum of one hundred and fifty thousand (150,000) dollars; and

(2) from the sum representing the five percent (5%) of its gross revenues deriving from the sale of electricity to consumers during each fiscal year and set aside pursuant to the provisions of section 212(b) of this title, after setting aside the sums provided in Act No. 2 of May 31, 1950, as amended, and Act No. 200 of May 14, 1948, as amended by Act No. 71 of 1954 [section 212 note of this title], the Authority is hereby authorized and directed to allocate the sum of fifty thousand (50,000) dollars;

and the Authority shall cover the total of the said two sums into the Irrigation Fund established by the Public Irrigation Act, sections 251-259 of this title, to be applied to the reduction of the annual assessments as provided in the Public Irrigation Act, in lieu of the estimated net receipts which would have resulted from the operation of the Hydroelectric System. — June 20, 1955, No. 83, p. 314, § 3, eff. July 1, 1955.

§ 231. — Discharge of advances

Upon conveyance to the Authority of title to the Hydroelectric System, the advances made by the Authority and to which finding (g) of section 228 of this title refers, computed to the effective date of sections 228-231 of this title, shall, with the consent of the Authority, evidenced by a resolution of its governing board, be understood as having been repaid in full and discharged. — June 20, 1955, No. 83, p. 314, § 4, eff. July 1, 1955.

§ 232. Hydroelectric System of Isabela Irrigation Service conveyed to Puerto Rico Water Resources Authority — Statement of motives

(a) The "Hydroelectric System of the Isabela Irrigation Service" includes the hydroelectric works and transmission and distribution lines and all facilities, improvements, extensions and additions making up the Hydroelectric System constructed or acquired under the provisions of the Isabela Public Irrigation Law approved June 19, 1919, sections 301-315 of this title, and laws amendatory thereof or supplementary thereto, hereinafter referred to as the "Isabela Public Irrigation Act", in use as of the effective date of sections 232-237 of this title for the generation and distribution of electric power, operated by the Department of Public Works of Puerto Rico pursuant to the provisions of said act, all of which works shall be hereinafter collectively referred to as "the Hydroelectric System".

(b) The operation by the Department of Public Works of the Hydroelectric System under the present set-up does not adequately meet the requirements of the district served by said System, and the integration of said System with the present electric properties of the Puerto Rico Water Resources Authority, hereinafter designated as "The Authority", will provide the means, not otherwise available, for expanding and improving the properties now making up the Hydroelectric System and thus meeting the ever increasing

demand for electric power service in the district.

(c) The conveyance of the Hydroelectric System to the Authority will permit further expansion and improvement of the System so conveyed and will improve the electric power service throughout the district.

(d) Under the provisions of the Isabela Public Irrigation Act, sections 301-315 of this title, all profits deriving from the sale of hydroelectric power developed in connection with the construction of the Irrigation System shall be covered into the Isabela Irrigation Fund and shall be applied, as provided by said act, to reduce the amount of the special annual assessment until all indebtedness incurred on behalf of the Irrigation System has been fully paid; but the right and title of ownership to such hydroelectric power shall remain in the Commonwealth Government.

(e) In accordance with the provisions of Act No. 178 of the Legislature of Puerto Rico, approved May 14, 1941, as amended by Act No. 431, approved May 14, 1951 [section 306 note of this title], the Legislature reduced the amount of the assessment theretofore required to be levied on the lands included in the Isabela Irrigation District in order to be able to render an adequate service to water users without incurring losses in the operation of the irrigation system proper, as had been the case in previous years.

(f) It is estimated that the available net amount which would have resulted from the operation of the Hydroelectric System for the fiscal year 1954-55 to be covered into the Irrigation Fund established by the Isabela Public Irrigation Act, sections 301-315 of this title, once the electric power rates and the operating costs of the said System were brought to the levels of those of the Authority, would be one hundred and twenty-five thousand (125,000) dollars.

(g) The proceeds of the tax levied and collected at present by the Secretary of the Treasury of Puerto Rico on the lands comprising the Isabela Irrigation District, together with other revenues deriving from the operation of the Isabela Irrigation System and the net amount available from the operation of the Hydroelectric System, will not, after the lowering of the electric power rates and the raising of the wage rates of the Isabela Irrigation Service to the level of those of the Authority and the providing for the payment of a royalty to the Commonwealth Treasury, which it is required to be paid once the conveyance takes place, pursuant to the Puerto Rico Water Resources Authority Act, sections 191-217 of this title (which royalty is at present estimated at approximately forty-five

thousand (45,000) dollars), and after the establishing of the reserves required by the Authority, be sufficient for paying the principal and interest of the outstanding bonded indebtedness incurred by the Commonwealth of Puerto Rico for the account of the said Service and the operating expenses of the Irrigation System; and to cover such deficiency the Commonwealth of Puerto Rico will provide funds in the manner provided in sections 232-237 of this title.

(h) Under the provisions of the Puerto Rico Water Resources Authority Act, sections 191-217 of this title, the Authority may, whenever it deems it advisable in the public interest, take over and operate the Hydroelectric System upon the authorization of the Legislature of Puerto Rico.

(i) The Authority has found, and such findings have the approval of its Consulting Engineers, who were employed pursuant to the provisions of the Trust Indenture dated January 1, 1947, by and between the Authority and the First National City Bank of New York, (1) that in case the Authority issues its bonds under the provisions of said Trust Indenture in such an aggregate principal amount, bearing interest at such rate, and maturing on such dates as to render same equivalent to annual payments to the holders of such bonds, in the way of principal and interest, in the amount of \$125,000 a year over a period of nineteen (19) years (which is the annual burden imposed on the Authority by sections 232-237 of this title as an item of Operating Expenses to be paid by it), and sells such bonds at par in order to raise funds to acquire by purchase the Hydroelectric System, the purchase price of \$125,000 a year for nineteen (19) years would be a reasonable price to pay for said properties; (2) that the acquisition of the Hydroelectric System would, in the opinion of the said Consulting Engineers, preserve, develop and improve the "System" as such word is defined in said Trust Indenture; (3) that the additional annual revenues of the "System" (as so defined) will be at least \$170,000 over and above the additional annual expenses resulting from such acquisition, figured as provided by section 209 of the said Trust Indenture; (4) that after adding such additional annual revenues to the average annual revenues of the "System", computed as provided in section 209 (c) (i), the percentage obtained by dividing such total amount by the maximum amount of the principal and interest payable in any subsequent fiscal year on the score of all the bonds theretofore issued under the provisions of the said

trust instrument and then outstanding and all such additional bonds as it might be required to be countersigned and delivered in order to obtain the money for the said purchase price of the Hydroelectric System, should same be purchased in this fashion, would not be less than one hundred and fifty percent (150%); (5) that the conveyance of the Hydroelectric System to the Authority under the provisions of sections 232-237 of this title and subject to the conditions hereof, in lieu of the purchase of the Hydroelectric System through the issuance and sale of bonds of the Authority, is acceptable to the Authority, the effect of such conveyance being, substantially, the same as if the Authority had issued its bonds for the acquisition by purchase of the Hydroelectric System and equally profitable to the Authority; and (6) that it is advisable in the public interest for the Authority to take over and operate the Hydroelectric System. — June 20, 1955, No. 84, p. 326, § 1, eff. July 1, 1955.

#### HISTORY

Repeals. Section 7 of Act June 20, 1955, No. 84, provided: "Act No. 174, approved May 15, 1939, and Act No. 201, approved May 11, 1942, are hereby repealed." Said Act May 15, 1939, No. 174, p. 894, related to the lighting of Colón Park in Aguadilla and it is not in L.P.R.A. Said Act May 11, 1942, No. 201, p. 1028, is cited in note under section 301 of this title.

#### § 233. — Conveyance and integration of Hydroelectric System; protection of irrigation rights; impairment of dams

(a) All property, real, personal, mixed, tangible and intangible, and all funds, appropriations, accounts, books, records, rights, franchises, contracts, obligations and privileges of whatever kind and description, appertaining to and making up the Hydroelectric System shall be conveyed and are hereby conveyed to and vested in the Authority, and on and after the effective date of such conveyance the said properties shall be integrated with the electric properties now owned by the Authority and shall thereafter be operated as an integral part thereof, subject to the rates, regulations and laws applicable to the Authority. The Registrars of Property shall, upon certification of the Authority approved by the Secretary of Public Works, register in the name of the Authority, fee free, the properties conveyed by sections 232-237 of this title.

(b) No provision of sections 232-237 of this title shall in any wise affect the right of the lands served by the Isabela Irrigation Service to receive water for irrigation purposes and to enjoy the benefits thereof in the same measure and to the same extent as they did prior to the approval of such sections, and such works of the

... conveyed to the Authority as are jointly used for the storage and conveyance of water for irrigation purposes and for the generation of electric power shall remain affected with their obligation toward the said lands; Provided, however, That after such conveyance has taken place the Authority shall, once the provisions hereof are complied with, have the utilization and application of such waters for all such purposes as may be necessary for the exercising by the Authority of its powers under the Puerto Rico Water Resources Authority Act, sections 191-217 of this title; Provided further, however, That should any of the dams of the Isabela Irrigation Service conveyed by sections 232-237 of this title become impaired in its functioning or become so damaged as to require reconstruction, it shall be the responsibility of the Commonwealth of Puerto Rico to provide the means for raising the necessary funds for defraying the reconstruction costs; And provided, also, That the Commonwealth of Puerto Rico shall release the Authority from and shall assume full liability for any damages caused to person or property by the total or partial failure of any such dam, or for extraordinary damages caused by the overflowing of any such dam. — June 20, 1955, No. 81, p. 326, § 2, eff. July 1, 1955.

§ 231. — Payments by Puerto Rico Water Resources Authority

After the properties of the Hydroelectric System are conveyed to the Authority as provided in section 233 of this title, beginning with the fiscal year commencing July 1, 1955, and in each fiscal year thereafter until the principal of and the interest on all of the present outstanding bonded indebtedness incurred by the Commonwealth of Puerto Rico for the account of the Isabela Irrigation Service shall have been paid or until provision for the payment thereof shall have been made, the Authority shall

(a) set aside from its gross revenues, as an item of Current Operating Expenses of the Authority, the sum of one hundred and twenty-five thousand (125,000) dollars; and the Authority is hereby authorized and directed to allocate

(b) from the sum representing the five percent (5%) of its gross revenues deriving from the sale of electricity to consumers during each fiscal year and set aside pursuant to the provisions of section 212(b) of this title after setting aside the sums provided in Act No. 2 of May 31, 1950, as amended, Act No. 200 of May 14,

Act No. 74 of 1951 [section 212 note of this title], and in sections 228-231 of this title:

(1) the sum of forty-five thousand (45,000) dollars; and

(2) when and insofar as necessary, such additional sum as, jointly with the sums provided in paragraphs (a) and (b) (1) of this section, plus the revenues deriving from the sale of water and the assessment at present levied on the lands included in the Irrigation District pursuant to the provisions of Act No. 178, approved May 14, 1911, as amended by Act No. 431, approved May 14, 1951 [section 306 note of this title], will be sufficient for paying the principal and interest and for establishing adequate sinking fund reserves for the outstanding bonded indebtedness incurred by the Commonwealth of Puerto Rico for the account of the Isabela Irrigation Service, and for paying the expenses of operation, maintenance, improvement and expansion of the Isabela Irrigation System; and the Authority shall cover the total of said sums into the Irrigation Fund established by the Isabela Public Irrigation Act, sections 301-315 of this title, to be applied in the manner provided therein. — June 20, 1955, No. 84, p. 326, § 3, eff. July 1, 1955.

§ 235. — Functions of Isabela Irrigation Service transferred to Puerto Rico Water Resources Authority; administration of remaining properties

(a) Such properties of the Isabela Irrigation Service as are not hereby conveyed shall be administered by the Authority, and in connection therewith all the powers, duties, functions, obligations and responsibilities which, prior to the approval of these sections 232-237 of this title, were vested in, and conferred or imposed upon the Chief Engineer of the Irrigation Service, the Commissioner of the Interior, the Executive Council of Puerto Rico, and the Public Service Commission, jointly or severally, under the Isabela Public Irrigation Act approved June 19, 1919, sections 301-315 of this title, and all other laws amendatory thereof or supplementary thereto, heretofore or hereafter enacted by the Legislature of Puerto Rico, are hereby transferred to and conferred and imposed upon the Authority. The Authority shall administer said laws in conformity with their provisions and shall be governed by them in the operation, maintenance, repair, construction of extensions and improvements of the works and systems constructed and operated thereunder. The Authority shall have power to set the basis for the allocating of the overhead and operating expenses of the



Authority in the operation of the Isabela Irrigation Service, subject to the previous approval of said basis of allocation by the Secretary of the Treasury of Puerto Rico.

(b) In the performance of its duties under the preceding paragraph the Authority shall pay directly all costs and expenses incurred by it. The Authority shall be reimbursed for all such costs and expenses, including a fair share of the Authority's own overhead and operating expenses attributable to the Isabela Irrigation Service, as determined in accordance with paragraph (a) above, from the funds available in the Commonwealth Treasury for the operation, maintenance, repair, construction of extensions and improvements of the irrigation works of said Service. From the said Irrigation funds in the Commonwealth Treasury there shall from time to time be advanced to the Authority suitable amounts to provide same with a working capital fund that will at all times be sufficient for paying promptly all such costs and expenses. The Authority shall keep and administer such funds in the same manner as it keeps and administers its own funds, but shall use same solely for the payment of such costs and expenses. Provided, however, That the Authority shall not be liable for any deficit resulting in any fiscal year from the operation, maintenance, improvements and extensions of the Isabela Irrigation Service, it being the obligation of the Commonwealth of Puerto Rico to provide the means for reimbursing the Authority for the amount of any such deficit as soon as it occurs. — June 20, 1955, No. 84, p. 326, § 4, eff. July 1, 1955.

#### HISTORY

**Text references.** The former Commissioner of the Interior and the Executive Council are now the Secretary of Public Works and the Council of Secretaries, respectively.

#### § 236. — Employees of Isabela Irrigation Service

Upon the taking effect of the conveyance of the Hydroelectric System as provided in sections 232-237 of this title, the Authority shall take over and employ such employees of the Isabela Irrigation Service as may be holding regular established positions. Any other provision of law to the contrary notwithstanding, the officials and employees who on the date such sections take effect are members of the Employees' Retirement System of the Government of Puerto Rico and its Instrumentalities shall continue to be members of said system. The Water Resources Authority shall, with respect to said

officials and employees, assume the same obligations imposed upon the Isabela Irrigation Service by Act No. 177 of April 20, 1952, amending sections 781 and 783 of Title 3. During the first six months following the effective date of such conveyance, the rates of compensation to be paid by the Authority to said employees and to such others as it may be necessary to hire for work in the present district of the Isabela Irrigation Service, shall be the same rates of compensation prevailing for the Isabela Irrigation Service at the time of such conveyance. At the expiration of the said six-month period and within an immediately subsequent period of six months, the Authority shall adjust the compensation of such of those employees as it may require for the operation of the properties hereby conveyed and those of the Isabela Irrigation Service in keeping with the job classification system of the Authority. During this latter six-month period such employees as are not required for the operation of the said properties shall be given employment priority by the Authority and by the Office of Personnel of the Commonwealth of Puerto Rico, any other provision of law to the contrary notwithstanding. — June 20, 1955, No. 84, p. 326, § 5, eff. July 1, 1955.

§ 237. — Rural electrification projects

The Water Resources Authority shall develop and carry out the rural electrification projects submitted by the Isabela Irrigation Service to the Puerto Rico Planning Board.

Such funds as the Isabela Irrigation Service may, at the time of the conveyance, have available for rural electrification projects, shall be used by the Water Resources Authority for these same purposes. — June 20, 1955, No. 84, p. 326, § 6, eff. July 1, 1955.

§ 238. Exclusion of land from South Coast and Isabela Irrigation Districts

The Puerto Rico Water Resources Authority is hereby authorized, after consultation with the Secretary of Agriculture, to exclude from the lands in the South Coast and the Isabela Irrigation Districts such parcels of land or portions thereof as to which any of the following circumstances attend:

(a) When such parcels of land or portions thereof have been acquired by the United States of America or by the Commonwealth of Puerto Rico or the agencies or instrumentalities thereof to be devoted to public purposes which do not require irrigation;

(b) When, by reason of acquisition by the United States of America or the Commonwealth of Puerto Rico or the agencies or instrumentalities thereof, of parcels of land or portions thereof or canal systems in the South Coast and the Isabela Irrigation Districts, the parcels of land to be excluded are not susceptible of irrigation; and

(c) When it has not been or is not possible to supply water to such parcels of land or portions thereof because the canal systems to them have not been constructed. Should such canals be in future constructed, the Authority may reintegrate these parcels into the corresponding Irrigation District. — June 13, 1957, No. 44, p. 100, eff. June 13, 1957.

#### HISTORY

Cross references. Lands in South Coast and Isabela Irrigation Districts, see sections 251 and 301 of this title.

AMENDMENTS TO PRWA ACT 83

## Chapter 11. Puerto Rico Electric Power Authority

### § 191. Short title: Puerto Rico Electric Power Authority

Sections 191-217 of this title may be cited as the "Puerto Rico Electric Power Authority Act".—May 2, 1941, No. 83, p. 684, § 1; Apr. 8, 1942, No. 19, p. 830, § 1; May 30, 1979, No. 57, p. 118, eff. 6 months after May 30, 1979.

1979—The 1979 Act changed the name of the "Water Resources Authority" to the "Electric Power Authority".

Change of name. Act May 30, 1979, No. 57, p. 118, provided:

"Section 1.—The Water Resources Authority, created pursuant to Act No. 83 of May 2, 1941, amended [secs. 191-217 of this title], is hereby designated with the new name of Puerto Rico Electric Power Authority. The English translation of the name as the 'Puerto Rico Electric Power Authority' is hereby adopted for all legal and corporate purposes.

"Section 2.—In every act approved by the Legislature of Puerto Rico or regulations in effect in Puerto Rico in which the name of the 'Puerto Rico Water Resources Authority' appears, it shall be understood that said act refers to the 'Puerto Rico Electric Power Authority'.

"Section 3.—Any act or part thereof in conflict with this act is hereby repealed.

"Section 4.—This act shall take effect six months after its approval."

Cross references. Evaluation of tariffs of public service corporations by the Autonomous Tariff Studies Institute, see sections 1081-1092 of Title 23.

Operation, maintenance and conservation of Toa Vaca Dam and Reservoir, see sections 171-178 of this title.

Water Resources Committee, see section 1506 of Title 12.

2.—Tax exemption. Since it was not legislative purpose, expressly or impliedly, to authorize Aqueduct and Sewer Authority, Water Resources Authority, Ports Authority, Government Development Bank and Industrial Development Company to make donations, these institutions cannot donate their funds to American Red Cross. 1963 Op. Sec. Jus. No. 29.

### § 192. Definitions

Change of name. Change of name of Authority, see note under section 191 of this title.

### § 193. Creation and composition of Authority

(a) There is hereby created a body corporate and politic constituting a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico by the name of the "Puerto Rico Water Resources Authority".

(b) The Authority hereby created is and shall be a governmental instrumentality subject, as provided herein, to the control of its governing board, but it is a corporation having legal existence and personality separate and apart from that of the Government. The debts, obligations, contracts, bonds, notes, debentures, receipts, expenditures, accounts, funds, undertakings, and property of the Authority, its officers, agents or employees shall be deemed to be those of said government-controlled corporation and not to be those of the Commonwealth Government or any office, bureau, department, commission, dependency, municipality, branch, agent, officer or employee thereof.—Added June 17, 1966, No. 62, p. 203, § 1, eff. June 17, 1966.

1966—Subsection (a): The 1966 Act omitted Governor of Puerto Rico, Secretary of Public Works and Secretary of Agriculture and Commerce as the officers integrating the Authority.

Subsection (b): The 1966 Act omitted Governor and Secretaries of Public Works and of Agriculture and Commerce as officers having control of Authority, which is now vested in its governing board.

Change of name. Change of name of Authority, see note under section 191 of this title.

#### § 194. Governing Board

The powers of the Authority shall be exercised and its general policy shall be determined by the Governing Board, to be known hereafter as "the Board".

The Governor of Puerto Rico shall appoint, with the advice and consent of the Senate, seven of the nine members who shall compose the Board, one of which shall be appointed for two years, two for three years, and four for four years. As the terms of office of the members of the Board so appointed expire, the Governor shall appoint their successors for a term of four years. Any vacancy in such offices shall be filled by appointment made by the Governor for the unexpired term thereof, within a term of sixty (60) days after the date the vacancy occurs. The other two members of the Board shall be elected by a referendum which shall be supervised by, and held according to the procedure determined by, the Department of Consumer Affairs, in accordance with the Governing Board of the Authority. The Authority must provide the facilities and means necessary for such purpose. The Authority shall implement the referendum pursuant to the procedure determined. These two members shall represent the consumers' interest, and shall not be employees or officials of the Authority, nor members of a local or central directing organization of a political party, which includes

all persons working actively for the party, or any person who is directly connected with the labor unions of the Authority.

The term of office of these two members shall be one for two years and the other for three years, and until their successors are appointed and qualified. As the terms of their offices expire, their successors shall be elected for a term of four years.

Any vacancy in such offices shall also be filled for a period of four years, within a term of one hundred twenty (120) days after the date the vacancy occurs.

The members of the Board who are officials of the Government of the Commonwealth shall not receive compensation for their services. The other members shall be entitled to a per diem of twenty-five (25) dollars for each day of session they attend or for each day they perform duties entrusted to them by the Board or its Chairman.

Within sixty (60) days after being appointed, the Board shall meet, organize and select its Chairman and Vice-Chairman. At that same meeting, it shall appoint and fix the compensation of an executive director, and shall also appoint a secretary, neither of whom shall be a member of the Board. The Board may delegate to the Executive Director or other officers, agents or employees of the Authority such powers and duties as it may deem proper. The Executive Director shall be the executive officer of the Authority and shall be responsible to the Board for the execution of its policy and for the general supervision of the operational phases of the Authority. Five members of the Board shall constitute a quorum for the transaction of its business and any other purpose, and every action shall be taken by not less than five of such members.

The Executive Director shall be charged with the general supervision of the officials, employees and agents of the Authority. The Executive Director may attend all meetings of the Board but shall not be entitled to vote.—Amended June 17, 1966, No. 62, p. 203, § 1, eff. June 17, 1966; May 25, 1973, No. 36, p. 102, § 1, eff. May 25, 1973; Feb. 1, 1979, No. 3, p. 7, eff. Feb. 1, 1979.

1979—The 1979 Act increased membership from 7 to 9 and provided that 5 shall be appointed by the Governor and that 5 members would constitute a quorum.

1973—The 1973 Act increased the number of members from 5 to 7 and amended the section generally.

Effectiveness. Section 2 of Act May 25, 1973, No. 36, provided: "This act [which amended this section] shall take effect immediately after its approval, except the provision on quorum and of the minimum number of mem-

bers to direct the business, purposes and resolutions of the Board, which shall take effect as soon as the members added to the Board are appointed and qualified."

1966—Subsection (a): The 1966 Act amended this section generally, providing that the 5 members forming the Board shall be appointed by the Governor of Puerto Rico with the advice and consent of the Senate for initial terms of 2, 3 and 4 years, and for 4 years thereafter at the expiration of each term.

Change of name. Change of name of Authority, see note under section 191 of this title.

Transitory provisions. Section 2 of Act June 17, 1966, No. 62, amending this section, provided: "The present members of the Governing Board shall continue in office until the Governor shall appoint the five members authorized by this act [this section]."

### § 195. Executive Director

Change of name. Change of name of Authority, see note under section 191 of this title.

Cross references. Energy Office, Advisory Committee on Energy, members, see section 1061c of Title 23.

Executive Director member of Lajas Valley Irrigation District Committee, see section 867 of this title.

### § 196. Powers of the Authority

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(c) To prescribe, adopt, amend and repeal bylaws and regulations governing the manner in which its general business may be conducted and the powers and duties granted to, and imposed upon it by law may be exercised and performed; as well, as with the intention of guaranteeing the safety of the persons or the property, to regulate the use and enjoyment of its properties and of such other properties under its administration; the use and consumption of electric power; the intervention with and handling of equipment, enterprises, facilities, apparatus, instruments, wires, meters, transformers and objects of any analogous nature owned by the Water Resources Authority and which are used in connection with the production, transmission, distribution and use and consumption of the electric power produced by said Authority. The bylaws so adopted shall have force of law once the provisions of sections 1041-1059 of Title 3 are complied with. Any artificial or natural person who violates or induces to violate any provision of a bylaw promulgated in accordance herewith, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than twenty-five (25) dollars nor more than one hundred (100) dollars or imprisonment in jail for a term of not less than one (1) month nor more than three (3) months or both penalties in the discretion of the court.



—Amended June 28, 1969, No. 112, p. 818, eff. June 28, 1969.

1969—Subsection (c): The 1969 Act added the text which begins “as well, as with the intention . . . .”

Change of name. Change of name of Authority, see note under section 191 of this title.

Regulations. Regulations manual for the installation of conductors and electrical equipment, approved Oct. 1, 1973, File No. 1744.

Cross references. Administration, maintenance and policing of Commonwealth highways, see section 8101 of Title 9.

Direct sale of excess property of agricultural use to bona fide farmers, standards, see section 1954 of Title 5.

Footpaths or pedestrian walkways, sale by municipalities, easements, see section 1091 of Title 21.

Regulation for maintenance of buildings, see sections 601-617 of Title 17.

2. Damages. The evidence, as weighed by the trial judge and as recited in the opinion, is sufficient to support that the electric company having bound itself to serve electric power to plaintiff immediately after receiving the payment for the reinstallation thereof, and there being no justification for the delay in the reinstallation of said service, the judgment ordering appellant to pay damages suffered by plaintiff as a result of the delay in the fulfillment of its obligation, is not erroneous. *Conjugal Partnership v. Water Resources Authority*, 1964, 91 P.R.R. 72.

#### § 197. Officers and employees

Change of name. Change of name of Authority, see note under section 191 of this title.

1. Destitution. The procedure for considering an unjustified removal of an employee by a corporate or public body may be an ordinary administrative procedure for removal, whenever the Act creating said body so authorizes, or may be heard by means of a complaint before the Arbitration Committee provided in the collective agreement between the body and its employees, whenever the agreement so provides. *Santos Rodríguez v. Water Resources Authority*, 1964, 91 P.R.R. 54.

The legislative intent is clear that any removal of a regular employee of the Water Resources Authority of Puerto Rico be reviewable by the corresponding part of the Superior Court of Puerto Rico. *Id.*

#### §§ 198-204.

Change of name. Change of name of Authority, see note under section 191 of this title.

#### § 205. Construction and purchase contracts; regulations for presentation of bids; exemption

All purchases and contracts for supplies or services, except for personal services, made by the Authority, including contracts for the construction of works of the Authority, shall be made after advertisement for bids sufficiently in advance of opening bids for the Authority to secure appropriate notice and opportunity for competition; Provided, That where the expense estimated to be

necessary in connection with the purchase or work does not exceed ten thousand (10,000) dollars, the same may be carried out without advertisement for bids. Advertisement for bids shall not be required, however, when (1) an emergency requires immediate delivery of the materials, supplies, equipment, or performance of the services; or (2) repair parts, accessories, or supplemental equipment or services are required for supplies or services previously furnished or contracted for; (3) professional or expert services or work are required and the Authority shall deem it best in the interest of good administration that contracts therefor be made without such advertisement; or (4) prices are noncompetitive because there is only one source of supply or because regulated under law; in any such case the purchase of such materials, supplies, or equipment, or procurement of such services, may be made in the open market in the manner usual in commercial practice. In the comparison of bids and the making of awards, due consideration shall be given to such factors (in addition to whether the bidder has complied with the specifications) as the bidder's ability to perform construction work of the kind involved in the construction contract under consideration; the relative quality and adaptability of materials, supplies, equipment or services; the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repair and maintenance services; and the time of delivery or performance offered. The Authority may prescribe rules and regulations for the submission of bids.

The Authority may prescribe regulations for biddings.

Provided, that the purchases of oil and its by-products made from governments of foreign countries, or organizations, enterprises, agencies, departments or other government entities of foreign countries, or corporations, partnerships or other enterprises controlled by governments of foreign countries, or from private entities doing business in Puerto Rico shall be exempt from the provisions of the foregoing paragraph. Said purchases shall be made subject to the following conditions:

(1) That for each purchase the Authority make an analysis of the advantages and benefits to be derived from the contractual relation between the Authority and any of the government entities of foreign countries mentioned above, and that from such analysis it is found that such purchase is favorable to the public interest;

(2) That every contract executed between the Authority and any of the government entities of foreign countries aforesaid for the purchase of oil and its by-products be approved by the Governor of Puerto Rico before it takes effect. The Governing Board shall submit to the Governor each contract for which approval is requested accompanied by the analysis showing the benefits and advantages that the contract represents to the public interest.

The power hereby conferred shall be effective for five (5) years reckoning from the date of approval of this act; however, any contract executed by virtue of its provisions may have a termination date subsequent to the effectiveness of this act.—Amended May 23, 1967, No. 39, p. 224, eff. May 23, 1967; May 27, 1976, No. 59, p. 172, eff. May 27, 1976.

1976—The 1976 Act added those paragraphs following first paragraph of this section.

1967—The 1967 Act increased from \$1,000 to \$10,000 estimated expense for purchases or works not requiring advertisement for bids.

Change of name. Change of name of Authority, see note under section 191 of this title.

Legislative purpose. For text of report from pertinent committee of Legislative Assembly on history and purpose of Act May 23, 1967, No. 39, see 1967 *Servicio Legislativo de Puerto Rico* No. 8, p. 397.

#### § 206. Bonds of the Authority

Change of name. Change of name of Authority, see note under section 191 of this title.

Cross references. Maximum interest and minimum price on sale of bonds, promissory notes and other debentures, see section 56 of Title 13.

#### §§ 207-211.

Change of name. Change of name of Authority, see note under section 191 of this title.

#### § 212. Tax exemptions; use of funds

(b) 1.—On or before September 15 of each year the Authority shall set aside from its net revenues a sum equal to five percent (5%) of its gross revenues derived from the sale of electricity to consumers during the preceding fiscal year. The sum thus set aside shall be devoted to such corporate purposes and in such amounts as the Legislature may have previously provided or may additionally provide hereafter.

The surplus remaining from the aforesaid five percent (5%) after setting aside such amounts as the Legislature may have

previously provided shall be withheld by the Authority to recover the cost of granting a credit in the bill of every consumer under residential rate having a monthly consumption of 400 KWH or less; or a bimonthly consumption of 800 KWH or less, said credit equivalent to the totality of what in the corresponding period said consumer would have had to pay for fuel adjustment as above provided, plus any other charge resulting from the increase in the fuel price; Provided that those users who have a monthly consumption of up to 425 KWH or a bimonthly consumption of up to 850 KWH or less shall also be entitled to receive the aforesaid credit up to the 400 KWH monthly or 800 KWH bimonthly. It being understood, that for the effects of sections 191-217 of this title the monthly or bimonthly period, as the case may be, shall comprise the number of days of the billing cycles of the Water Resources Authority.

Any balance remaining from the five percent (5%) of the Authority's gross revenues from the sale of electricity to consumers, after setting aside the amounts required for the authorized purposes, as above provided, shall be paid by the Authority to the Commonwealth Treasury on or before September 15 of each year, and the amount so paid shall constitute general funds of the Commonwealth Government; in like manner, any amount by which the totality of the obligations assumed by the Commonwealth of Puerto Rico exceeds five percent (5%) of the aforesaid gross revenues, plus the difference between six percent (6%) of the gross revenues, and what may appertain to the municipalities, shall constitute a debt of the Commonwealth of Puerto Rico which shall be met from any unencumbered funds in the Treasury on or before September 15 of each year. The Authority shall begin to grant the fuel-adjustment credits contemplated in the preceding paragraph, beginning with the bills corresponding to the meter reading of July 1, 1974, and henceforth. The Authority shall withhold the totality of the surplus remaining from the liquidation of the five percent (5%) corresponding to fiscal year 1973-74 to comply with the ends and purposes of sections 191-217 of this title.

2.—On or before September 15 of each year, the Authority shall pay to the Secretary of the Treasury from its net revenues and by way of contribution in lieu of taxes, to be credited to each municipality in whose urban zone the Authority distributes electricity directly to the public, a sum equal to six percent (6%) of its gross revenues derived from the sale of electricity, said

six percent (6%) computed on the revenues for the sale of electric power adjusted at an annual average price of fuel not exceeding four (4) dollars a barrel, during the preceding fiscal year, to consumers in the urban and rural zones of said municipality; Provided, That for the fiscal year 1974-75 the payment to be made shall be whichever is greater between the said computations and the estimates on the amounts to be paid, already reported by the Authority to the different municipalities; Provided, further, That the Authority may deduct from such annual payments any amount due and owed to the Authority by any municipality at the close of a fiscal year and still unpaid as of the next July 31. As used in this subsection, the term "urban zone" shall mean that zone of a municipality which has been declared urban zone by the municipal government thereof prior to February 10, 1941, and in case any municipality has not declared its urban zone prior to said date, then, for the sole purposes of this subsection, the urban zone of said municipality shall be that declared as such by the Governor or the officer or agency he may designate upon request of either the municipality or the Authority. The difference between six percent (6%) of the total gross revenues of the Authority and the sum to be paid to the municipalities, determined under the provisions hereof, shall be withheld by the Authority to answer, in the first place, for the obligation the Commonwealth of Puerto Rico may have incurred hereunder, and which has not been covered by the remainder of the five percent (5%) of the gross sales provided in the above paragraph (b)1. Any balance in the amount resulting from the difference between six percent (6%) of the total gross revenues and the amount appertaining to the municipalities, after meeting the obligations herein set forth, shall be forwarded to the Treasury of the Commonwealth of Puerto Rico.

3.—If the net revenues of the Authority for any fiscal year are not enough to permit the payments of the special total amounts of paragraphs 1 and 2 of this subsection (b), the payments provided to be distributed among the municipalities under said paragraph 2 shall be made in the first place and any surplus from net revenues shall be allotted or paid to the Commonwealth Treasury, as provided in said paragraph 1. If such net revenues are not enough to make the total payments provided by said paragraph 2, the amount of net revenues thus paid in said fiscal year shall be prorated among said municipalities.

The Authority shall not be bound to make any payment in any fiscal year in excess of the amount of net revenues available for such purposes in said fiscal year, and it shall not be required to replace any deficit in the payments made in any preceding fiscal year.

Nothing herein provided shall require the Authority to increase its rates, fees, rentals, and other charges then in force for using the facilities of the Authority, or for services, electric power or other commodities sold, rendered or furnished by it in order to provide enough funds to make the payments based on the percentages specified in said paragraphs 1 and 2.

As used in this subsection, the term "net revenues" shall mean the revenues of the Authority, for any fiscal year, which may remain after provision has been made for the operation expenses of the undertakings of the Authority and for the payment of the principal of, and the interest on, its outstanding bonds, and to guarantee the reserves necessary for such purposes, including, but without limitation, the Reserve for Renewals and Replacements of the Authority and the other reserves of funds and accounts provided under the Authority's Trust Deed, dated January 1, 1947, as amended, or as it may be amended, or under any other trust deed securing the bonds of the Authority.

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—Amended June 28, 1973, No. 5, p. 758, eff. June 28, 1973; June 28, 1974, No. 106, Part 1, p. 349, eff. June 28, 1974.

1974—Subsection (b): The 1974 Act changed "August 15" to "September 15" in the first sentences of the first and third paragraphs, added a second paragraph, and added all that after "Commonwealth Government" in the third paragraph of par. 1. The act also amended par. 2 generally.

1973—Subsection (b): The 1973 Act amended paragraph 3 generally.

Change of name. Change of name of Authority, see note under section 191 of this title.

Statement of motives. Act June 28, 1974, No. 106, contained a statement of motives.

#### §§ 213–217.

Change of name. Change of name of Authority, see note under section 191 of this title.

#### § 218. Employees' rights as to retirement or pension plans

Change of name. Change of name of Authority, see note under section 191 of this title.

Services in Armed Forces. Credits, see section 806a of Title 3 and the statement of motives note thereunder.

§ 218a. —Payment upon death of participants in Retirement System

(a) Upon death of a retired member of the Employees Retirement System of the Puerto Rico Water Resources Authority in receipt of a retirement or disability annuity, any fractional amount of the pension by month or other period that is already due as of the date of his death, and/or the excess, if any, of the accumulated contributions of the member at the time of retirement, over the total amount of all retirement or disability annuity payments received by him prior to his death, shall be paid to his duly designated beneficiaries or heirs, if such designation was not made.

(b) Upon death of a member of the Employees Retirement System of the Puerto Rico Water Resources Authority while in service in the Puerto Rico Water Resources Authority or while on regular leave with pay or other authorized leave of absence, the accumulated contributions of said employee as of the date of his death, which are not pledged as security for a loan from said Retirement System, shall be paid to his duly designated beneficiaries or heirs, if such designation was not made.—June 22, 1975, No. 48, p. 112, §§ 1, 2, eff. June 22, 1975.

Codification. Subsections (a) and (b) were derived from sections 1 and 2, respectively, of Act June 22, 1975, No. 48.

Change of name. Change of name of Authority, see note under section 191 of this title.

Statement of motives. Act June 22, 1975, No. 48, contained a statement of motives. See Laws of Puerto Rico 1975, p. 112.

§§ 219-227e.

Change of name. Change of name of Authority, see note under section 191 of this title.

§ 227f. Acceleration of industrial electrification program

(a) The Water Resources Authority is hereby authorized for the purpose of continuing and accelerating to the maximum the industries whose working operation requires a high consumption of electric power at the lowest possible cost, to accelerate its program of generating and distributing electric power through the installation of two units of approximately 400,000 KW, each, during the years 1971, and 1972, instead of the installation of two 200,000 KW units, as programmed by said Authority for said years.

(b) For the purposes of assuring that the Water Resources Authority shall not incur in any loss that may jeopardize its economic situation if for any reason some of the industries to which the

Statement of Motives and paragraph (a) of this section refer, are not established in Puerto Rico after the Water Resources Authority has incurred economic obligations in connection with the installation of the said units of approximately 400,000 KW, the Commonwealth Government pledges itself to reimburse to the Water Resources Authority the difference between the costs of generating electric power less the revenues derived from the sale of said power to the industries of this kind that may be established in Puerto Rico. For the purposes of determining the amount of money to be reimbursed by the Commonwealth Government to the Water Resources Authority under the foregoing formula, the generation costs consists of the sum of: (a) a 9½% of the additional investment required for installation of units of approximately 400,000 KW, on the investment of the 200,000 KW units for the years 1971 and 1972; and (b) the operation cost, the product of kilowatt-hour (KWII), sold during the year immediately preceding to said industries and the average unitary cost of operation, maintenance and fuel in the 400,000 KW units to be installed for the years 1971 and 1972.

The obligation contracted in this section by the Commonwealth Government shall be extended for a period of not more than 4 years commencing with fiscal year 1971, and ending with fiscal year 1974, both inclusive, and the total sum reimbursed by the Commonwealth Government to the Water Resources Authority in any of said fiscal years shall not exceed the sum of three million two hundred fifty thousand (3,250,000) dollars during each one of said years.

Independently of the obligation contracted by the Commonwealth referred to in this section and for the purposes that the Water Resources Authority may grant electric power contracts to be effective after 1974, and for a period of not more than 6 years, on the basis of a fixed price with the industries referred to in this section, the Commonwealth of Puerto Rico binds itself and guarantees to the Water Resources Authority the reimbursement of the resulting difference between the cost of the fuel used to generate the power sold to said industries computed on the average price of the fuel used in the system of the Water Resources Authority and that resulting if computed on the basis of a unitary price of 24 cents for 1,000,000 BTU. Provided, that this guarantee shall not exceed three million (3,000,000) dollars during any year of the period herein provided.



In order to facilitate the establishment of industries within the terms of this section so that they may begin their operations before January 1st, 1971, the guarantee in connection with the computation of the fuel established by this section shall be advanced for the term from the beginning of their operations up to January 1st, 1971.

(c) The Water Resources Authority shall determine, upon previous consultation with the Economic Development Administrator, those industries which in accordance with the provisions of this section may be established in the future in Puerto Rico and with which the Water Resources Authority shall enter into a special contract for the supplying of electric power; Provided, That said determination shall be made taking into consideration the demand for electric power of the industries, the electric charge installed, the capacity of the generating and distributing system of the Water Resources Authority, the electric power available to offer said services and the employment opportunity and the economic and social impact that the establishment of said industries may produce in benefit and profit of Puerto Rico, and, Provided, finally, That the Water Resources Authority shall not enter into any contract of supplying electric power under the provisions of this section with industries that from the beginning of their operations may have a demand of less than 40,000 KW.

In the event that an industry in particular begins its operations with an initial charge of less than 40,000 KW but is estimated that it will reach said capacity of demand in a reasonable period of time to be determined by the Economic Development Company and by the Water Resources Authority said industry shall remain covered by the provisions of this section, as soon as it reaches and maintains this demand.

(d) The Puerto Rico Water Resources Authority is hereby authorized in connection with all and each one of the fiscal years in which the guarantee of the Commonwealth referred to in this section is in force to withhold from the 5% of its gross income that it annually sets aside in accordance with section 212(b)1 of this title, those sums of money that may be sufficient to comply with the obligations of the Commonwealth Government referred to in subsection (h) of this section.

(e) Withholdings of any amount of money out of the 5% of the gross income of the Authority referred to in paragraph (d) of this title shall be entitled to a priority immediately following the priority assigned for the withholding of funds under section 1,

subsection (a) of Act No. 46, approved June 4, 1960, with regards to rural electrification programs.

(f) The Puerto Rico Water Resources Authority is hereby authorized, in connection with the provisions of paragraphs 1 and 2 of subsection (b) of section 212 of this title, to cease withholding from its gross income the five (5) and the six percent (6%) corresponding to its gross income by reason of the sale of electric power to the industries, that in accordance with the provisions of this section the Water Resources Authority may determine to enter into a contract of special supply for the supplying of electric power; as well as to cease withholding the said 5 and 6% in connection with any other industries who reach an individual demand of electric power of not less than 40,000 KW from the beginning of their operations, or after the lapse of a reasonable initial period of trial.—May 31, 1967, No. 82, p. 284, §§ 1-6, eff. May 31, 1967; amended June 26, 1968, No. 140, p. 398, §§ 1-4, eff. June 26, 1968.

1968—Subsection (b): The 1968 Act added the third and fourth paragraphs of this subsection.

Subsection (c): The 1968 Act added the second paragraph of this subsection.

Subsection (d): The 1968 Act substituted "in connection with all and each one of the fiscal years in which the guarantee of the Commonwealth referred to in this section is in force" for "commencing with the fiscal year 1971 and during all subsequent fiscal years up to, and including fiscal year 1974".

Subsection (f): The 1968 Act added "or after the lapse of a reasonable initial period of trial" and introduced some minor changes in the wording of the English version of the subsection.

Text references. Act No. 46, approved June 4, 1960, referred to in subsection (e) of this section, is set out in a note under section 212 of this title.

Codification. Subsections (a) to (f) of this section are derived from sections 1 to 6, respectively, of Act May 31, 1967, No. 82.

Change of name. Change of name of Authority, see note under section 191 of this title.

Statement of motives. Act May 31, 1967, No. 82, from which the subsections of this section are derived, contained a statement of motives.

#### § 227g. Continuation of rural electrification program—1972

(a) For the purpose of continuing the General Program of Rural Electrification that, as a public service for the development of the economy of Puerto Rico is being rendered by the Water Resources Authority to the Commonwealth of Puerto Rico, the said Authority is hereby authorized to construct new electric distribution lines in the rural district of our Island.

(b) The costs incurred in the construction, repair, maintenance and operation of the facilities and properties of the Water Resources Authority in relation with the Rural Electrification Pro-

gram shall be paid annually to said Authority by the Commonwealth in the manner hereinafter provided and taking into consideration the expenses incurred for such reason and the income to be derived from the operation of the new electric distribution lines constructed by the Authority in the rural district; Provided, That said payments shall not extend over a period of thirty (30) years after the construction of said lines and that the total sum to be paid by the Commonwealth to the Authority during any one fiscal year shall not exceed, one hundred eleven thousand five hundred and one (111,501) dollars; Provided, finally, That to determine the annual amount of such payments there shall be applied the formula contained in the contract between the Authority and the Secretary of Agriculture in representation of the Commonwealth which was executed on February 5, 1959, effective July 1, 1958, under the mandate of sections 227a-227d of this title, relative to rural electrification.

(c) The Water Resources Authority is hereby authorized on and from fiscal year 1972, and subsequent fiscal years to withhold five percent (5%) from its gross income that annually, it sets aside, in accordance with section 212(b)1 of this title, those amounts of money that may be necessary to make the payments referred to, in subsection (b) hereof. Such withholding of funds shall be in addition to, and shall enjoy the same priority as the withholding of funds authorized under section 1 of Act No. 46 of June 4, 1960, in connection with Rural Electrification Projects authorized by sections 221-223, 224-227, 227a-227d and 227e of this title.

(d) Should the sum set aside by the Water Resources Authority in accordance with section 212(b)1 of this title be insufficient during any fiscal year including fiscal year 1972, to satisfy the payments referred to in subsection (b) of this section, the Secretary shall cover the payments from any unencumbered funds available in the Commonwealth Treasury and said funds are hereby appropriated for the said purposes.—June 15, 1972, No. 15, p. 372, §§ 1-4, eff. June 15, 1972.

*Text references.* Act June 4, 1960, No. 46, referred to in subsection (c) of this section, is set out as a note under section 212 of this title.

*Codification.* Subsections (a)-(d) of this section correspond respectively to sections 1-4 of Act June 15, 1972, No. 15.

*Change of name.* Change of name of Authority, see note under section 191 of this title.

## § 227h. —1974

(a) For the purpose of continuing the General Program of Rural Electrification that, as a public service for the development of the economy of Puerto Rico is being rendered by the Water Resources Authority to the Commonwealth of Puerto Rico, the said Authority is hereby authorized to construct new electric distribution lines in the rural district of our Island.

(b) The costs incurred in the construction, repair, maintenance and operation of the facilities and properties of the Water Resources Authority in relation with the Rural Electrification Program shall be paid annually to said Authority by the Commonwealth in the manner hereinafter provided, and taking into consideration the expenses incurred for such reason, and the income to be derived from the operation of the new electric distribution lines constructed by the Authority in the rural district; Provided, That said payments shall not extend over a period of thirty (30) years after the construction of said lines, and that the total sum to be paid by the Commonwealth to the Authority during any one fiscal year shall not exceed, nine hundred seventy-five thousand (975,000) dollars, it being provided, Finally, that to determine the annual amount of such payments there shall be applied the formula contained in the contract between the Authority and the Secretary of Agriculture in representation of the Commonwealth which was executed on February 5, 1959, effective July 1, 1958, under the mandate of sections 227a-227d of this title, relative to rural electrification.

(c) The Water Resources Authority is hereby authorized on and from fiscal year 1974, and subsequent fiscal years to withhold five percent (5%) from its gross income that it annually sets aside, in accordance with section 212(b) of this title, those amounts of money that may be necessary to make the payments referred to, in subsection (b) of this section. Such withholding of funds shall be in addition to, and shall enjoy the same priority as the withholding of funds authorized under Section 1 of Act No. 46 of June 4, 1960, in connection with Rural Electrification Projects authorized by sections 221-223, 224a-227, 227a-227d, 227e and 227g of this title.

(d) Should the sum set aside by the Water Resources Authority in accordance with section 212(b) of this title, be insufficient during any fiscal year including fiscal year 1974, to satisfy the payments referred to subsection (b) of this section, the Secretary of the Treasury shall cover the deficiency from any unencumbered funds

available in the Commonwealth Treasury, and said funds are hereby appropriated for said purposes.—July 23, 1974, No. 174, Part 2, p. 15, §§ 1-4, eff. July 23, 1974.

*Text references.* Act No. 46 of June 4, 1960, referred to in subsection (c) of this section, is set out as note under section 212 of this title.

*Codification.* Subsections (a)-(d) of this section correspond, respectively, to sections 1-4 of Act July 23, 1974, No. 174.

*Change of name.* Change of name of Authority, see note under section 191 of this title.

§ 227i. —1979

(a) For the purpose of continuing the General Program of Rural Electrification that, as a public service for the development of the economy of Puerto Rico, is rendered by the Water Resources Authority to the Commonwealth of Puerto Rico, said Authority is hereby authorized to construct new electrical power distribution lines in the rural zone of our Island.

(b) The costs incurred in the construction, repair, maintenance and operation of the facilities and properties of said Authority in relation with the Rural Electrification Program shall be paid annually to said Authority by the Commonwealth in the manner hereinafter provided and taking into consideration the expenses incurred for such reason and the income to be derived from the operation of the new electrical power distribution lines constructed by the Authority in the rural zone; Provided, That said payments shall not extend beyond a period of thirty (30) years counting from the date of the construction of said lines and that the total sum to be paid by the Commonwealth to the Authority during any one fiscal year shall not exceed one million, one hundred sixty-two thousand, two hundred and twenty-nine (1,162,229) dollars; it being provided, finally, that to determine the annual amount of such payments, there shall be applied the formula contained in the contract between the Authority and the Secretary of Agriculture, in representation of the Commonwealth, which was executed on February 5, 1959, to be effective July 1, 1958, under the mandate of sections 227a-227d of this title, with regard to rural electrification and as revised and brought up-to-date in August of 1978.

(c) The Water Resources Authority is hereby authorized on and from fiscal year 1979, and subsequent fiscal years, to withhold five percent (5%) from its gross income that it annually sets aside in accordance with section 212 of this title those amounts of money that may be necessary to make the payments referred to in sub-

section (b) hereof. Such withholding of funds shall be in addition to, and shall enjoy the same priority as, the withholding of funds authorized under section 1 of Act No. 46 of June 4, 1960, in connection with rural electrification projects authorized by sections 221-223, 224-227, 227a-227d, 227e, 227g and 227h of this title.

(d) Should the sum set aside by the Water Resources Authority in accordance with section 212(b)(1) of this title be insufficient during any fiscal year, including fiscal year 1979, to satisfy the payments referred to in subsection (b) of this section, the Secretary of the Treasury shall cover the deficiency from any unencumbered funds available in the Commonwealth Treasury and said funds are hereby appropriated for said purposes.—July 12, 1979, No. 104, p. 246, §§ 1-4, eff. July 12, 1979.

*Text references.* Act No. 46 of June 4, 1960, mentioned in subsec. (c) of this section, is set out as a note under section 212 of this title.

*Codification.* Subsections (a)-(d) are derived from sections 1-4, respectively, of Act July 12, 1979, No. 104.

*Change of name.* Change of name of Authority, see note under section 191 of this title.

#### §§ 228-235.

*Change of name.* Change of name of Authority, see note under section 191 of this title.

#### § 236. —Employees of Isabela Irrigation Service

Upon the taking effect of the conveyance of the Hydroelectric System as provided in sections 232-237 of this title, the Authority shall take over such employees of the Isabela Irrigation Service as may be holding regular established positions. Any other provision of law to the contrary notwithstanding, the officials and employees who, on the date of approval of these sections, were members of the Employees' Retirement System of the Government of Puerto Rico and its Instrumentalities shall have the option, if so requested in writing to the Water Resources Authority, within a term of 180 days from the date this act is approved, of choosing between to continue contributing to the above-mentioned Retirement System or to transfer their credits and contributions to the Employees' Retirement System of the Puerto Rico Water Resources Authority and becoming members of said System. The credits and contributions of employees, who within the term indicated choose to become members of the Employees' Retirement System of the Puerto Rico Water Resources Authority shall be transferred from the Employees' Retirement System of the Gov-

ernment of Puerto Rico and its Instrumentalities to the Employees' Retirement System of the Puerto Rico Water Resources Authority, pursuant to the terms and conditions provided by the Reciprocity Act, sections 797-806 of Title 8, for such transfers between government retirement systems. The Water Resources Authority shall, with respect to said officials and employees, assume the same obligations imposed upon the Isabela Irrigation Service by Act No. 177 of April 30, 1952, which amended sections 781 and 783 of Title 3. During the first six months following the effective date of such conveyance, the rates of compensation to be paid by the Authority to said employees and to such other as it may be necessary to hire for work in the present district of the Isabela Irrigation Service, shall be the same rates of compensation prevailing for the Isabela Irrigation Service at the time of such conveyance. At the expiration of the said six-month period and within an immediately subsequent period of six months, the Authority shall adjust the compensation of such employees as it may require for the operation of the properties hereby conveyed and those of the Isabela Irrigation Service in keeping with the job classification system of the Authority. During this latter six-month period such employees as are not required for the operation of the said properties shall be given employment priority by the Authority and by the Office of Personnel of the Commonwealth of Puerto Rico, any other provision of law to the contrary notwithstanding.—Amended July 7, 1973, No. 1, p. 813, eff. July 7, 1973.

1973—The 1973 Act amended this section to offer to the employees of the Isabela Irrigation Service holding regular established positions the option of choosing between continuing to contribute to the Employees' Retirement System of the Government or transferring their credits and contributions to the Employees' Retirement System of the Puerto Rico Water Resources Authority and becoming a member of latter System.

Change of name. Change of name of Authority, see note under section 191 of this title.

Statement of motives. Act July 7, 1973, No. 1, contained a statement of motives.

§§ 237, 238.

Change of name. Change of name of Authority, see note under section 191 of this title.

#### § 239. Reading of electric power service meters

(a) The electric power service meters shall be read or verified at least once every two (2) months in the rural and urban zones

by duly trained personnel of the Puerto Rico Water Resources Authority.

(b) At the time of reading the meters, the employee in charge of same shall leave a notice in writing informing the results of the reading in a place chosen by the subscriber, so that the latter may verify whether the reading is correct. If the employee is unable to reach the meter so as to read it, he shall leave the subscriber a notice in writing reporting such fact so that the latter may proceed to read his own meter and send its reading to the Water Resources Authority within the term of two (2) days from the date of the notice.

(c) The Water Resources Authority shall distribute among its subscribers written information on how to read the meters and billing said services, and it may also use for this purpose any means of public diffusion.—May 31, 1972, No. 80, p. 183, §§ 1-3, eff. 60 days after May 31, 1972.

*Codification.* Subsections (a)-(c) of this section correspond, respectively, to sections 1-3 of Act May 31, 1972, No. 80.

*Change of name.* Change of name of Authority, see note under section 191 of this title.