

CHATTANOOGA CITY CHARTER

Title 10

MUNICIPAL ELECTRICAL SYSTEM¹

- Ch. I. In General, §§ 10.1 – 10.21**
- Ch. II. Electric Power Board of Chattanooga, §§ 10.22 – 10.35**

CHAPTER I. IN GENERAL

Sec. 10.1. Authorization for city to purchase, construct, acquire, etc., electric light, power and distribution stations, etc., within and without city.

The City of Chattanooga in its corporate capacity is hereby authorized and empowered to purchase, construct, lease or otherwise acquire, and to maintain, operate and regulate, either within or without the corporation limits of said city, and [an] electric light and power plant and distribution system and substations, together with all necessary or appropriate equipment, appliances and appurtenances for the proper operation thereof, for the purpose of lighting public buildings, streets, parks and other municipal property, and for any and all other purposes; and for the sale of electric current for light, heat, power, or any other purpose whatever, within the corporate limits of said city and the territory adjacent thereto. (Priv. Acts 1935, Ch. 455, § 2)

Sec. 10.2. Authorization for city to purchase, construct, acquire, etc., electric light, power and distribution system, etc., within and without city and in State of Georgia; city may sell, advertise, etc., electrical current and portions of electric distribution system.

The City of Chattanooga in its corporate capacity, is hereby authorized and empowered to purchase, construct, lease, or otherwise acquire, and to maintain, operate, and regulate an electric light and power plant and distribution system and substations, together with all necessary and appropriate equipment, appliances, and appurtenances, for the proper operation thereof, within the corporate limits of said city, and within the territory of Hamilton County, Tennessee, and adjoining counties, and within the territory of Catoosa County and Walker County, in the State of Georgia, for the purpose of sale of electric current for light, heat, power, or any other purposes; and that the said City of Chattanooga is hereby authorized and empowered, in its corporate capacity, to expend such moneys as may be deemed necessary to further the sale of electric energy, including educational work, advertising, sales promotion and such other means

¹ **Cross references**--Public utilities generally, Title 14; board of electrical examiners, § 9.1.

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as may be deemed necessary for the efficient operation of said electric distribution system and the furthering of sales of electric current; and the said City of Chattanooga is hereby authorized and empowered, in its corporate capacity, to lease, sell, and convey, any part or portion of said electric power plant and distribution system, lying outside of the corporate limits of the City of Chattanooga, that may be deemed necessary and expedient for the efficient and successful operation of said electric distribution system. (Priv. Acts 1939, Ch. 538, § 1)

Sec. 10.3. Bonds-Authority to issue.

The said City of Chattanooga be and it is hereby authorized, in its corporate capacity, to issue and sell its bonds to be signed by the mayor and countersigned by the finance officer of said city in an amount not exceeding fourteen million dollars (\$14,000,000.00) for the purpose of acquiring an existing electric power plant and distributing system, or of constructing, equipping, maintaining and operating an electric power plant and distribution system. (Priv. Acts 1935, Ch. 455, § 3; Priv. Acts 1939, Ch. 348, § 1; Ord. No. 10742, § 1(1), 8-18-98)

Sec. 10.4. Same-Denominations; to be issued as serial bonds; interest; how payable; signatures; tax levy when bonds issued as general obligations of city; sale to federal agencies; private sales.

The bonds herein authorized shall be payable in lawful money of the United States of America and shall be executed in denominations of one hundred dollars (\$100.00) or multiples thereof, no single bond to exceed one thousand dollars (\$1,000.00), said bonds shall be issued as serial bonds, maturing in such amounts and at such times not less than three (3) nor more than thirty (30) years from the date of the issuance thereof as the city council may determine, and shall bear interest at the rate of not more than six per cent (6%) per annum, payable semiannually, said interest installments to be evidenced by coupons attached to the bonds, which coupons shall bear the printed or lithographed facsimile of the signatures of the mayor and finance officer of said city; and said bonds and coupons shall be payable to bearer and the bonds shall be sold at the best price obtainable and shall in no case be sold for less than par and accrued interest. Said bonds shall be issued from time to time in such amounts, and shall bear dates, as the electric power board hereinafter created shall direct; and it shall be the duty of the mayor and city council of the city to provide by resolution or ordinance for the issuance of said bonds as directed by said electric power board. Said bonds shall be known as electric power bonds of the City of Chattanooga and they may be issued either as direct and general obligations of the city, payable out of its general income and revenue, or at the election and subject to the determination of said power board they may be made payable only out of the revenue from said power plant and distribution system. In case the bonds are issued as general obligations of the city, it shall be the duty of the governing board of said city to levy a tax each year over and above the taxes levied for general municipal purposes, to pay the interest and principal of said bonds as they mature, provided, however, that in case the revenue derived from the operation of the electric plant and distribution system herein provided for is sufficient to pay the interest and principal of

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said bonds, as they severally mature, then, in that event it will not be necessary to make a special levy for the payment of said interest and principal, but the city shall each year levy a sufficient amount which, when added to the amount of revenue derived from the operation of the electric power plant and distribution system, will be sufficient to pay the interest on said bonds and the installments of principal maturing during the year.

The mayor of said city, with the approval of the city council, shall have power and authority to sell the bonds issued under the provisions of this Act to the Reconstruction Finance Corporation, Public Works Administration, Tennessee Valley Authority or any federal agency at private sale, without any public advertisement. Unless the bonds are sold to a federal agency, said bonds shall be sold at public sale in accordance with the provisions of section 3707, Tennessee Code of 1932 [T.C.A. § 6-57-209], and the mayor and city council shall have power and authority to hypothecate any or all of the bonds issued under the provisions of this Act and to borrow thereon funds from the Reconstruction Finance Corporation, the Public Works Administration, or any other similar government agency or board, or from any bank. Said bonds shall contain a recital that they are issued pursuant to and in accordance with this Act, and such recital shall be conclusive of their legality. (Priv. Acts 1935, Ch. 455, § 4; Ord. No. 10742, § 1(1), 8-18-98; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.5. Same-Statutory mortgage lien created on power plant and distribution system purchased with bonds.

In event the power board shall elect to have bonds issued payable only out of the revenue from the operation of said power plant and distribution system they shall notify the city council of such determination. If revenue bonds are issued for the construction or acquiring of an existing power plant and distribution system there is hereby created a statutory mortgage lien upon the power plant and distribution system constructed or acquired to and in favor of the holders of said revenue bonds. Any holder of any of said bonds may either at law or in equity by suit, action, mandamus or other proceedings protect and enforce the statutory mortgage lien hereby conferred, and may by suit, action, mandamus, or other proceedings enforce and compel performance of all the duties required by this Act. (Priv. Acts 1935, Ch. 455, § 4; Priv. Acts 1937, Ch. 899, § 1; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.6. Same-City Council authorized to do certain acts to secure payment of revenue bonds.

In order to secure the payment of revenue bonds issued pursuant to this Act and the interest thereon, the city council shall have the power as to such bonds, to the extent not inconsistent with the mandatory provisions of this Act:

(a) After the payment of operating expenses from the gross revenue to pledge all or any part of the remaining revenue derived from the operation of the electric power plant and distribution system to secure the payment of the bonds and interest thereon.

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(b) The covenant as to the rates and charges to be imposed and the amounts to be raised in each year by such rates and charges and the use and disposition thereof, and the electric power board shall carry out the provisions of this covenant.

(c) To set aside a reserve or sinking fund and the relation and disposition thereof and to provide for the redemption of revenue bonds and to provide the terms and conditions thereof.

(d) To covenant and prescribe as to what happenings or occurrences shall constitute "default" and the terms and conditions upon which any or all of such 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.

(e) To covenant as to the right, liabilities, and powers and duties arising upon the breach by it of any covenant, condition or obligation.

(f) To vest in a trustee or trustees the right to receive all or any part of the income assigned to, or for the benefit of, the holder or holders of bonds issued hereunder, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay or in relation to the bonds; to execute and deliver a trust agreement or trust agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and limiting the liabilities thereof, and describing what occurrences shall constitute default, and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage of such bonds may exercise such rights and enforce any and all of such covenants and resort to such remedies as may be appropriate.

(g) To make covenants other than, and in addition to, the covenants herein authorized, of like or different character, necessary or advisable to effectuate the purpose of this Act.

(h) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties.

(i) To provide for the replacement of lost, destroyed or mutilated bonds.

(j) The electric power board shall carry out the agreements and covenants made by the city council with the holder or holders of revenue bonds as herein provided. (Priv. Acts 1937, Ch. 899, § 1; Ord. No. 11272, § 1, 05-02-02)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

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Sec. 10.7. Same-Rights of holders of revenue bonds.

Any holder or holders of revenue bonds, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

(a) By mandamus or other suit, action or proceedings in any court of competent jurisdiction to enforce his or their rights against the City of Chattanooga, the city council thereof, and the electric power board of said city and any other proper officer, agent or employee of any of them, including, but without limitation, the right to require the electric power board and any proper officer, agent or employee thereof to fix and collect rates and charges adequate to carry out any agreement as to the electric power plant and distribution system revenues.

(b) By action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of such holders of bonds. (Priv. Acts 1937, Ch. 899, § 1; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.8. Same-City Council authorized to confer certain rights upon bond holders.

The City of Chattanooga shall have power by resolution of its city council to confer upon any holder or holders of a specified amount or percentage of bonds the right in event of default as defined in such resolution or as may be defined in any agreement with the holder or holders of such bonds or the trustee or trustees therefor:

(a) By suit, action or proceedings in any court of competent jurisdiction to obtain the appointment of a receiver of the electric power plant and distribution system or any part or parts thereof. If such receiver be appointed he may enter and take possession of such electric power plant and distribution system or any part or parts thereof and operate and maintain the same, and collect the revenue thereafter arising therefrom in the same manner as the electric power board or City of Chattanooga might do and shall deposit such moneys in a separate account or accounts and apply the same in accordance with the obligations of the City of Chattanooga as the court shall direct.

(b) By suit, action or proceedings in any court of competent jurisdiction, to require the city council of the City of Chattanooga and the electric power board of said city to account as if they were the trustee on an express trust. (Priv. Acts 1937, Ch. 899, § 1; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.9. Same-Use of proceeds from sale of bonds.

All moneys received from bonds issued under this Act shall be used solely for the purpose of defraying the cost of acquiring or constructing an electric power and distribution system, and extension thereof, and the equipment, appliances and appurtenances necessary or appropriate thereto; provided, however, that such moneys may be also used to pay interest

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maturing on said bonds during negotiations for the acquiring of an existing electric power and distribution system, or during the construction of such power plant and distribution system, and until the system has been put into operation. The board hereinafter created is authorized to incur expenses for the making of surveys and estimates of costs and of revenues, and to certify the expense thereof to the city council of said city, who shall pay the same from the general funds of the city; and such payments from the general funds shall be considered as temporary loans, and shall be repaid, upon sale and delivery of said bonds, out of said bond fund. (Priv. Acts 1935, Ch. 455, § 5; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.10. What cost of electric power plant and distribution system to include.

The cost of the electric power plant and distribution system shall be deemed to include all necessary expenses of preliminary surveys, estimates of costs and of revenues, and all the cost of acquiring such power plant and distribution system or of the construction thereof also the cost of all necessary or suitable property; rights-of-way, casements [easements] and franchises; and also to include interest in bonds issued under this Act maturing prior to and during the construction or acquisition of the plant for six (6) months thereafter, together with engineering and legal expenses, expenses for plans, specifications and surveys, administrative expenses and all such other expenses as may be necessary or incidental to the financing of, acquiring or constructing and equipping an electric power and distribution system as herein authorized, and the placing of such power plant and distribution system is [in] operation. (Priv. Acts 1935, Ch. 455, § 6)

Sec. 10.11. Statutes fixing maximum indebtedness of city not to apply to bonds issued under act.

No statute, general or special, fixing the maximum indebtedness of the said City of Chattanooga, or prohibiting the issuance of bonds, notes or other indebtedness, shall apply to or limit the amount of bonds that may be issued or the amount of money that may be borrowed under this Act and all acts or provisions of the Charter of said city in conflict with the provisions of this Act are hereby repealed. (Priv. Acts 1935, Ch. 455, § 17)

Secs. 10.12 -- 10.21. Reserved.

CHAPTER II. ELECTRIC POWER BOARD OF CHATTANOOGA

Sec. 10.22. Created; membership; term of office of members.

There is hereby created a board to be known and designated as the "Electric Power Board of Chattanooga," consisting of five (5) members, all of whom shall be residents of Hamilton County, Tennessee. Two (2) members of said board shall be appointed for a period of four (4) years; two (2) for a period of six (6) years, and one for a period of eight (8) years, and each of the

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members of the board shall serve until his successor is appointed and qualified. The first board shall consist of the following named persons, to wit: Stanton Smith and L.J. Wilhoite, who are appointed for a period of four (4) years; J.C. Twinam and George H. Patton, who are appointed for a term of six (6) years; and Harold C. Fiske, who is appointed for a period of eight (8) years, and who shall act as chairman of said board.

When the term of the first appointee, hereinabove named, expires, his successor shall be appointed to serve for a period of two (2) years or until his successor is elected and qualified, and thereafter, his successor shall be appointed for a period of five (5) years or until his successor is elected and qualified. Upon the expiration of the term of the second appointee, his successor shall serve for a period of four (4) years or until his successor is elected and qualified, and, thereafter, his successor shall be appointed for a period of five (5) years or until his successor is elected and qualified. Upon the expiration of the term of the third appointee, his successor shall be appointed for a term of three (3) years or until his successor is elected and qualified, and, at the expiration of said term of three (3) years, his successor shall be appointed for a term of five (5) years or until his successor is elected and qualified. Upon the expiration of the term of the fourth appointee, his successor shall be appointed for a term of five (5) years or until his successor is elected and qualified, and, thereafter, his successor shall be appointed for a term of five (5) years or until his successor is elected and qualified. On or about April 15, 2007 and every year thereafter, the members of the Electric Power Board shall elect from among their number a chairperson and a vice chairperson to serve for a year's term. The current chairperson shall continue as a member of the Board until the normal expiration of his five (5) year term as a Board member and thereafter his successor shall be appointed in the same manner and for the same length of term as other Board members. (Priv. Acts 1935, Ch. 455, § 7; Priv. Acts 1941, Ch. 455, § 1; Ord. No. 11872, § 1, 8-22-06)

Sec. 10.23. Vacancies in office of board.

When the term of appointment of any member or members of said board shall have expired, or when any vacancy in the board occurs by reason of death, resignation, removal or other cause, the vacancy or vacancies shall be filled by appointments made by the mayor, subject to confirmation by the city council of the City of Chattanooga, and if any appointment made by the mayor shall not be confirmed by the city council within a period of ten (10) days after notice of the appointment has been given to the city council, such appointment shall be null and void, and thereupon it will be the duty of the mayor to make a new appointment or appointments, which shall likewise be subject to confirmation by the city council of the City of Chattanooga. (Priv. Acts 1935, Ch. 455, § 7; Ord. No. 11872, § 1, 8-22-06; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.24. General counsel-Position created; appointment of assistants.

There is hereby created the position of general counsel of said electric power board for a period of eight (8) years. The first general counsel of said board shall be Will F. Chamblee, who shall serve for a period of eight (8) years from and after the passage of this Act, or until his

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successor is appointed and qualified. Provided, further, that said general counsel shall have full authority to select and appoint his legal assistants subject, however, to approval of the board. (Priv. Acts 1935, Ch. 455, § 7)

Sec. 10.25. Same-Vacancy in office.

When the term of appointment of the general counsel of said board shall have expired, or when any vacancy occurs by reason of death, resignation or other cause, the vacancy in the position of general counsel shall be filled by appointment made be [by] the board. (Priv. Acts 1935, Ch. 455, § 7)

Sec. 10.26. Compensation; duties of chairman; selection, duties of vice-chairman.

The compensation of the chairman shall be nine thousand dollars (\$9,000.00) per annum, and he shall have immediate charge of the operating departments, the financial department, and the management of the electric distribution system, plant, equipment and other property belonging to the system, and shall be chargeable with the enforcement and execution of all rules and regulations, programs, plans and decisions made and adopted by the board.

The board shall elect one of its members vice-chairman, who, in the absence of the chairman or his inability to act, shall discharge the duties of the chairman and such other duties as may be prescribed by the board. The compensation of the vice-chairman of the board shall be eighteen hundred dollars (\$1,800.00) per annum and the compensation of the other members of the board shall be twelve hundred dollars (\$1,200.00) per annum.

The compensation of the general counsel shall be in such amount or amounts as the board shall determine from time to time, and all compensation of the general counsel and assistants and the members of said board shall be payable monthly out of the revenue derived from the operation of said power plant and distribution system, provided however, that the compensation of said board and the general counsel and assistants prior to the time that said power plant and distribution system shall be put into operation and is earning sufficient revenue to pay the same, may be paid out of the proceeds of the bonds issued and sold under this Act, and provided further that the compensation of the general counsel and assistants and of the other members of said board prior to the issuance and sale of said bonds, shall be paid out of the general funds of the city, and such payment from the general funds shall be considered as a temporary loan and shall be refunded out of the proceeds of the sale of the bonds when realized. (Priv. Acts 1935, Ch. 455, § 7; Priv. Acts 1941, Ch. 455, § 2; Priv. Acts 1951, Ch. 27, § 1; Priv. Acts 1970, Ch. 280, § 1; Priv. Acts 1970, Ch. 318, § 1)

Editor's note-Private Acts 1970, Ch. 280, § 1, and Private Acts 1970, Ch. 318, § 1, amended the acts codified as § 10.26 by increasing the salaries. Formerly the chairman received \$6,000.00; the vice-chairman, \$1,800.00; each board member, \$900.00; the general counsel, not less than \$6,000.00 nor more than \$7,500.00.

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Sec. 10.27. Organization of board.

Said board shall organize immediately after the passage of this Act, and enter upon the discharge of its duties, and the board may, in its discretion, employ someone not a member of the board to act as secretary. (Priv. Acts 1935, Ch. 455, § 7)

Sec. 10.28. Oath and bond of members of board.

The members of said board hereinbefore designated and all subsequent members before entering upon the discharge of the duties of their office, shall take and subscribe to an affidavit before any person authorized to administer an oath that they will faithfully and honestly discharge the duties of their office, and they shall file said affidavit with the mayor and city council of said city, and each member of the board shall execute and file with the mayor and city council a bond in the sum of five thousand dollars (\$5,000.00), payable to the City of Chattanooga, Tennessee, conditioned for the faithful performance of his duties. (Priv. Acts 1935, Ch. 455, § 8; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.29. Removal of members of board from office.

Any member of said board who shall knowingly or willfully neglect to perform any duty enjoined upon him by virtue of the provisions of this Act or of the laws of the State of Tennessee, or who shall prove incompetent to perform or shall fail to perform the duties of his office, or who shall be guilty of any act involving moral turpitude shall be removed from office, as hereinafter provided.

It shall be the duty of the city attorney of the said City of Chattanooga, on notice being filed with him in writing that any member of said board is subject to removal on the grounds set forth in the last preceding section [paragraph], to forthwith investigate such complaint and if upon such investigation he shall find there is reasonable cause for the complaint he shall forthwith institute proceedings by filing a petition in the circuit, criminal or chancery court of Hamilton County, Tennessee, to oust such member from said board. The accused member shall be named as defendant to the petition or complaint, which shall state the charges against the defendant with reasonable certainty and shall be verified by affidavit.

Upon the filing of the petition, a summons shall issue, requiring the defendant to appear and answer the petition within twenty (20) days from the service thereof, and there shall accompany the summons and be served upon the defendant a copy of the petition so filed against him. The petition and answer shall constitute the only pleadings allowed, and all allegation[s] in the answer inconsistent with or contradictory of the allegations of the petition shall be deemed controverted, and any and all questions as to the sufficiency of the petition shall be raised and determined on the trial; and if such petition or complaint is held to be insufficient in form the same shall be amended at once and such amendment shall not delay the trial of the case. The

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proceedings, whether in the circuit, criminal, or chancery court, shall be conducted in accordance with the procedure of courts of chancery, and each of said courts is hereby given the full jurisdiction and powers of courts of equity with respect to such proceedings.

Such proceedings shall be given precedence over all other civil and criminal cases, and shall be tried at the first term after the filing of the petition, provided the answer to the petition shall have been filed at least ten (10) days before the day of trial. If the defendant shall fail to answer said petition within twenty (20) days after the service thereof or if on trial he shall be found guilty as charged in the petition, judgment of ouster shall be rendered against him and he shall be ousted and removed from his office and forever disqualified from again being a member of the board. Either party may appeal or prosecute a writ of error to the supreme court from the final judgment or decree rendered in such cause, but such appeal or writ of error shall not operate to suspend or vacate the judgment or decree of the trial court, but the same shall remain in full force until vacated, reversed or modified by the supreme court. Upon petition being filed as herein provided against any member of said board praying for his ouster or removal, the court in which the petition is filed may suspend the defendant from acting as a member of the board or performing any of the duties thereof pending the final determination of the case; and the vacancy caused by such suspension shall be filled as provided in this Act for the filling of other vacancies on said board and the person filling such vacancy shall act as a member of the board until the ouster proceedings shall be finally determined or until the successor of the member so suspended shall be appointed and qualified as provided in this Act. If upon the final hearing of such ouster proceeding the defendant is not found to be subject to removal or ouster he shall be immediately restored as a member of said board if he has been suspended in the meantime, and he shall be allowed his full salary during the time of his suspension. The person temporarily filling the office of member of the board, as herein provided, shall receive compensation during the time of his service at the same rate provided by this Act, to be paid to the member so suspended. (Priv. Acts 1935, Ch. 455, §§ 9, 10)

Sec. 10.30. Authority of power board to purchase, construct, etc., electric power plant, distribution system, etc.; authority to contract with Tennessee Valley Authority, etc.

Said Electric Power Board of Chattanooga be and they are hereby authorized to purchase, construct, erect or otherwise acquire and to maintain and operate the electric power plant, distribution system, substations, etc., hereinbefore provided for; and said board shall have full power and authority to purchase, rent, lease or otherwise acquire any and all kinds of property, real or personal, for the said City of Chattanooga, in order to carry out the powers herein granted, and also to enter into any and all contracts with the Tennessee Valley Authority or others for the furnishing of electric current to the City of Chattanooga, and to enter into any other contracts with any other persons, partnerships, associations or public or private corporations which may be by said board deemed necessary or expedient in exercising said powers; and said board shall have full control over the erection, construction, maintenance and operation of said plants and

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properties with full power to make rules for the control and maintenance of said plants and properties, the manner of operation, and the employment of officials and employees of every kind. Said board may acquire by purchase and [an] existing electric power plant and distribution system with substation appurtenances, equipment, etc., and it is authorized to carry on all necessary or proper negotiations therefor; and in the event the board is unable to acquire an existing power plant and distribution system within a reasonable time and on terms which it considers to be fair and reasonable, it is authorized to make the necessary surveys and enter into contracts for the construction of such power plant, distribution [distribution] system, substations, etc., and the equipment and appliances necessary or appropriate thereto. The board is also authorized to enter into contracts with the Tennessee Valley Authority or other agencies for the furnishing of electric current to the said City of Chattanooga to be used by said city for its own purposes and, also to sell the same for light, power, heating or any other purpose, and to agree on rates for the sale of such current. (Priv. Acts 1935, Ch. 455, § 11)

Sec. 10.31. Power board to have exclusive management and control of operation of power plant, distribution system, etc.; authority to engage, fix salaries, etc., of employees; semiannual financial statement to be filed with City Council.

Said Electric Power Board of Chattanooga shall have exclusive management and control of the operation of said electric power plant and distribution system, with authority to engage, determine the number, and fix the salaries and duties of, all employees and to remove employees at their discretion; provided, said board may in its discretion delegate to a manager or superintendent to be chosen by it the power and authority to employ and remove subordinate employees. The board shall provide an accounting system, and all revenues collected from the operation of the said power plant and distribution system shall be deposited in the name of the City of Chattanooga and kept in a separate fund and shall be dispersed upon warrants of the said board drawn on the city treasurer, the warrants to be signed by the secretary of the board and approved by the general manager of the power plant and distribution system. Said board shall make and file with the mayor and city council of said city on the first day of January and first day of July of each year a financial statement showing the financial operations during the preceding six (6) months and the financial condition of the said power and distribution plant. (Priv. Acts 1935, Ch. 455, § 12; Ord. No. 11272, § 1, 05-02-02)

Sec. 10.32. Board to charge city for services.

The said Electric Power Board of Chattanooga shall charge the said city for any electric service furnished it at rates applicable to other customers served under similar conditions; and the revenue derived from such services shall be treated as all other revenues of said board or power system. (Priv. Acts 1935, Ch. 455, § 13)

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Sec. 10.33. Use of revenue derived from operation of electric power plant and distribution system.

The revenues derived from the operation of said electric power plant and distribution system shall be used for the following purposes:

(1) Current electric system operating expenses, including, without limitation salaries, wages, cost of materials and supplies, power at wholesale, and insurance;

(2) Current payments of interest on electric system indebtedness, and the payment of principal amounts, including sinking fund payments, when due;

(3) From any remaining revenues, reasonable reserves for renewals, replacements, and contingencies, and cash working capital adequate to cover operating expenses for a reasonable number of weeks; and

(4) From any revenues then remaining, tax and tax equivalent payments to taxing districts (defined for purposes hereof as governmental bodies, including without limitation the City of Chattanooga, and other taxing jurisdictions in which the tangible property used in board's electric operations is located) as follows:

(a) The board shall determine as of the first day of January 1969, and as of the first day of January each and every year thereafter from the general books of the board, the depreciated original cost of the board's tangible property, including materials and supplies, used or usable in electric operations in each taxing district, including the City of Chattanooga, in which the board has such property.

(b) The board shall create each year as soon as current ad valorem tax rates are available a tax equivalent fund for that year by applying the current ad valorem tax rate in each taxing district to the depreciated original cost of the board's tangible property, including materials and supplies, used or usable in electric operations with such taxing district.

(c) The board shall make payments from this tax equivalent fund within the period allowed for tax payments without penalty the following as taxes or tax equivalents:

(1) To each taxing district the amount of taxes assessed against the board as legally assessed taxes;

(2) To each other taxing district where no taxes are legally assessed against the board an amount arrived at by applying the current ad valorem tax rate

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in that district to the depreciated original cost of the board's tangible property, including materials and supplies, used or usable in electric operations in that district; and

- (3) To the City of Chattanooga as the owner of the board's electric system (no matter where located), in addition to the amount determined under clause (2) of paragraph (c) above, any remaining amount of the tax equivalent fund not paid out in accordance with clauses (1) and (2) of paragraph (c) above; provided, however, that with respect to taxing districts other than those which levy taxes against the board the amount to which the current ad valorem tax rate of any taxing district is applied under paragraph (b) and clause (2) of paragraph (c) above, shall not be less than the amount to which said district's tax rate was applied for purposes of determining the tax equivalent for that district for the year 1968; and provided, further, that the payments in lieu of taxes hereunder shall be in lieu of all taxes and other charges on the property or operations of board's electric system, or upon the sale, purchase, use, or consumption of electric power and energy, and such payments shall be made only so long as the respective taxing districts do not levy such taxes or other charges. In the event that any taxing district is hereafter authorized to and does levy any such tax or charge, the amount payable as a tax equivalent to that taxing district and the total amount payable into the tax equivalent fund created by board shall be reduced by the amount of such tax or charge; provided, however, that in no event shall any such reduction resulting from such tax or charge levied by any taxing district other than Chattanooga cause the sum of (1) the amount paid hereunder to the City of Chattanooga and (2) any portion of such tax or charge received directly or indirectly by the City of Chattanooga to be less than an amount calculated by applying the prevailing tax rate of said city to the depreciated original cost of the tangible property used in board's electric operations within the corporate limits of the city; provided further that nothing herein or in the provisions of this Act, as amended, shall have the effect of limiting or restricting the powers of the City of Chattanooga and the Electric Power Board of Chattanooga to contract otherwise with respect to payments in lieu of taxes either with any supplier of wholesale power or with purchasers or holders of its bonds issued for electric system purposes.
- (5) The determination by the board of the respective amounts of the payments in lieu of taxes to be made to the taxing districts and of the funds available for such payments shall be final.

(Priv. Acts 1935, Ch. 455, § 14; Priv. Acts 1939, Ch. 538, § 2; Priv. Acts 1941, Ch. 455, § 3; Priv. Acts 1945, Ch. 53, § 1; Priv. Acts 1968, Ch. 310, § 1)

MUNICIPAL ELECTRICAL SYSTEM

Sec. 10.34. Board to have control and supervision of expenditure of funds from sale of bonds.

Said board shall have control and supervision of the expenditure of the funds realized from the sale of the bonds herein authorized, which fund shall be disbursed upon warrants of said board signed by the secretary of the board and approved by the chairman thereof. (Priv. Acts 1935, Ch. 455, § 15)

Sec. 10.35. Power of eminent domain.

Said board is expressly authorized to exercise the power of eminent domain on behalf and in the name of the City of Chattanooga within the said city and the boundaries of Hamilton County, Tennessee, in order to require [acquire] any property, real or personal, necessary or useful in exercising the power and authority conferred by this Act; and any property so acquired shall be paid for out of the earnings of the power plant and system herein provided for, or from the proceeds of the bond issue authorized by this Act. The title to all property taken for the purpose of exercising the powers conferred by this Act whether acquired by contract or by exercise of the power of eminent domain, shall be taken in the name of the City of Chattanooga, Tennessee; and such condemnation proceedings as may be deemed necessary or proper shall be pursuant to and in accordance with the provisions of Section 3109 and Section 3134, inclusive, of the 1932 Code of Tennessee. [T.C.A. §§ 29-16-101--29-16-124]. (Priv. Acts 1935, Ch. 455, § 16)