

CHAPTER 453

MANAGEMENT OF MUNICIPALLY-OWNED UTILITIES

453.01 POWER AND LIGHT COMMISSIONS CREATED.

A corporation which held itself out to furnish steam service to anyone in a certain city block, and which in fact served one customer only, is not a "public utility" within the emergency price control act of 1942, and consequently not exempt from maximum price regulation. *Bowles v Arcade Inv. Co.* 64 F. Supp. 578.

Where a commission is created by the state its name should be descriptive of its purpose and powers. OAG Feb. 9, 1944 (624-E-2).

In entering into an apprenticeship agreement with employees in municipal utility plants, the utility commission cannot limit its control of operation or discipline. OAG Nov. 1, 1945 (624-A-3).

453.02 MEMBERS, APPOINTMENT.

A village council lacks authority to remove at will and without a hearing members of its water, light, power, and building commission created under L. 1907, c. 412, as amended (ss. 453.01 to 453.07). *State ex rel v. Bergeron*, 156 M 277, 194 NW 624.

453.04 POWERS OF COMMISSIONS.

Where a village desires to enter into a contract for the purchase of electrical energy, the village council, and not the commission created under L. 1907, c. 412, must enter into the contract. 1942 OAG 248, Sept. 5, 1941 (624-C-2).

A village commission may contract with an independent telephone company for joint use of telephone poles. 1942 OAG 250, Nov. 5, 1941 (624-C-14).

In transferring surplus funds from the utility fund to the general fund, the utility commission and the village council should both pass appropriate resolutions. OAG Oct. 25, 1945 (624-A-6).

A utility commission created under L. 1907, c. 412, may contract to purchase equipment to be paid out of earnings of the plant and may issue certificates accordingly. OAG March 4, 1946 (707-A-15).

The water and light commission of the village of Proctor has control of and may fix and regulate rates charged to consumers. Neither the village council nor the railroad and warehouse commission has any control whatever. OAG June 27, 1946 (624-D).

The water and light commission has authority to transfer surplus funds to the village general fund. OAG Jan. 22, 1947 (624-a-6).

Commission may transfer surplus funds to the village general fund; but being a gift the village council should by resolution accept the gift. OAG Jan. 28, 1947 (624-a-6).

Promulgation of rules and regulations is a unilateral action on the part of the commission, and the right to change such rules cannot be bargained or contracted away. A contract with a labor union or representative would not modify the right to amend. OAG Feb. 18, 1947 (270D).

In advertising for bids for supplies, the law does not look with favor on pre-qualification requirements; but in considering the bids and letting the contract, the commission may consider which bidder is most capable of performing the contract. OAG March 5, 1947 (707-a-4).

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454.05 MANAGEMENT OF MUNICIPALLY-OWNED UTILITIES

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453.05 RATES, HOW FIXED; WARRANTS; PUBLICATION OF PROCEEDINGS.

See, *State ex rel v McIlraith*, 113 M 237, 129 NW 377; *State ex rel v Gorman*, 117 M 323, 136 NW 402.

Rate-making is purely a legislative function and the legislature having delegated that power to the village water and light commission the duties of fixing rates pursuant to sections 453.01 to 453.07 is entirely in the hands of the commission. The railroad and warehouse commission is without power to fix rates. OAG June 27, 1946 (624-D).

453.11 POWERS OF COMMISSION ENLARGED IN CERTAIN CASES.

The village council and not the light and power commission make the contracts for electric energy. OAG April 21, 1943 (469-B-6).

In order to finance the instalation of a municipal liquor store, utility commission surplus funds may be transferred to the general fund and from the general fund to the municipal liquor store fund. OAG March 6, 1946 (624-A-6).

453.12 COMMISSION TO COLLECT FUNDS.

Amended by L. 1947 c. 51 s. 1.

453.16 GENERAL POWERS.

The city of Albert Lea is not authorized to serve a housing project in the way of water, light, gas, caretaker, or other similar expenses. OAG March 13, 1946 (59-A-40).