

Property Ownership Information

The Narragansett Electric Company d/b/a Rhode Island Energy (the Company) owns or has existing legal easements for the transmission line right-of-way that is the subject of this application. The Narragansett Electric Company d/b/a Rhode Island Energy was granted the power of condemnation in its legislative charter, or granted easement over lands owned by others.

As required by section 10.02(B) of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, proof of ownership (Rhode Island Acts and Resolves, January Session, 1964, pages 904-916 and Rhode Island Acts and Resolves, January Session, 1976, pages 87-89) is attached as documentation of Rhode Island Energy's authority.

S 697
Approved
May 6, 1964.

AN ACT in Amendment of an Act, Entitled "An Act to Incorporate United Electric Power Company," Passed at the January Session, 1926, and the Several Acts in Amendment Thereof and Relating Thereto.

It is enacted by the General Assembly as follows:

Section 1. The Narragansett Electric Company (hereinafter called "said Company") a corporation created by an act of the general assembly passed at its January Session A. D. 1926 under the name of United Electric Power Company (which name was changed by authority of an act in amendment of said act passed at the January session A. D. 1927) is hereby authorized and empowered to exercise the right of eminent domain for the purpose of taking any land, interests in land, or other rights necessary or desirable for the erection, construction, extension, installation, maintenance, alteration, use or operation from time to time of a line or lines for the transmission of currents of electricity of eleven thousand volts or more and for the erection, construction, extension, installation, maintenance, alteration, use or operation of such poles, towers, wires, conduits and other appurtenances and appliances, in-

cluding buried ground wires, as may be necessary or desirable for such line or lines, in the manner and subject to the conditions hereinafter provided in this act, subject to first obtaining an order from the Public Utility Administrator permitting the filing of a petition in accordance with section 2 hereof.

To obtain such an order said Company shall file with the Public Utility Administrator a statement signed and verified by the President or a Vice President and the Secretary or an Assistant Secretary setting forth the general character of the land, interests in land or other rights over which it desires to exercise said right of eminent domain and the reasons why such taking is necessary or desirable in connection with the conduct of its business and is in the public interest.

It shall be the duty of the Public Utility Administrator to issue such an order forthwith whenever necessary or desirable to enable said Company to carry on its business, unless in his opinion such action would be contrary to the public interest, and for the purpose of determining such necessity or desirability and such public interest said Public Utility Administrator may hold such hearings, make such inquiries or investigations and examine such witnesses, books, papers, documents and contracts as he may deem proper.

Such order issued by the Public Utility Administrator under the provisions of this section shall recite that said Company has established at least a prima facie case in favor of the necessity or desirability of the exercise of the right of eminent domain for the purpose of carrying on its business and that in the opinion of the Public Utility Administrator the exercise of such

rights, subject to the provisions hereinafter contained, would be in the public interest. Any refusal of the Public Utility Administrator to issue such an order shall be subject to appeal as provided by law.

Sec. 2. Whenever said Company shall have obtained from the Public Utility Administrator an order pursuant to the provisions of Section 1 hereof, it may file in the superior court of the State of Rhode Island for the County of Providence a petition setting forth the general character of the land, interests in land or other rights over which it desires to exercise said right of eminent domain, a general description of the structures, works, excavations and facilities initially to be erected, constructed, extended, installed, maintained, altered, used or operated over, under or across such land, interests in land, or other rights, and a list of the owner or owners of record of and other persons having an interest in such land, interests in land or other rights over which it desires to exercise said right of eminent domain. Said petition shall be accompanied by a map or plan showing the location of such land, interests in land or other rights and the location of any structures, works, excavations, facilities initially to be erected, constructed, extended, installed, maintained, altered, used or operated thereon and shall contain a notice that said Company will give such security as the court may require for the payment of all such costs and damages as may be finally awarded to any person interested in such land, interests in land, or other rights taken in the proceedings commenced by the filing of such petition. Said Company shall furnish copies of said petition and map or plan to the

commissioners hereinafter referred to as may be required by said commissioners for filing as hereinafter provided in the land records of the towns or cities where such land is located.

Sec. 3. Upon the filing of such petition and map or plan in said superior court, said court shall enter an order fixing the time when and the place where all persons interested in the land, interests in land, or other rights, described in said petition may appear before said court and be heard with reference to the necessity or desirability of the taking of such land, interests in land, or other rights, the security to be given by said Company for damages and costs and the appointment of commissioners to appraise the damages sustained by such taking by the persons entitled thereto; and said court shall direct notice of said order to be served on the city or town clerks of the cities and towns wherein such land, interests in land, or other rights are located and on the owner or owners of record of or other persons having an interest in said land, interests in land, or other rights, and on said Company at least ten days prior to said hearing, which notice shall be served in the same manner as writs of summons issued out of the superior court are required to be served, or if said owner or owners of record, or other persons having an interest are non-residents of this State, such notice shall be published in such newspaper or newspapers three (3) times on such dates as the court may direct; and in case the post office address of such non-resident shall be known, a copy of said notice shall be mailed to said owner or owners, postage prepaid, under the direction of said court.

Sec. 4. At the time and place mentioned in said notice, or at any adjournment thereof ordered by the court, the court, after hearing the parties interested, including the Public Utility Administrator and any of the municipalities in which the land, interests in land, or other rights to be taken are located, who may appear and desire to be heard, shall first determine whether the land, interests in land, or other rights, as set forth in said petition are necessary or desirable to said Company for its purposes aforesaid; and if the court shall determine that such land, interests in land, or other rights, are necessary or desirable to said Company for its purposes aforesaid and that such taking is in the public interest, said court shall proceed by its decree to fix and determine the security to be given by said Company for the payment of costs and damages and to appoint three disinterested persons as commissioners to appraise the damages sustained by the persons entitled thereto, by reason of the taking of said land, interests in land, or other rights. After entry of such decree as soon as said Company shall have given the security fixed therein, title to said land, interests in land, or other rights shall vest in said Company, its successors and assigns, and said Company may forthwith enter upon, take possession of and use the same. Any vacancies in said commission which may occur from time to time shall be filled by said court, upon application of any party interested in said proceedings (including said Company) and upon such notice as said court may direct.

Sec. 5. Said commissioners, before they proceed to execute their duties, shall be sworn to a faithful and

impartial discharge thereof, shall give reasonable notice, by publication or otherwise, in such manner as said court in said decree may direct, to the owner or owners of record of and other persons having an interest in said land, interests in land, or other rights, to file their claims, if any they have, which have not been released to said Company, with the clerk of said court within sixty days from the date of said notice and shall file said copy of said petition and said map or plan and a certified copy of the decree in the land records of the town or city where such land, interests in land, or other rights are located. At the end of the time allowed for filing such claims, or any extension thereof, the commissioners, or a majority of them, shall fix a time and place for hearing all persons who have filed claims as aforesaid, as to the damages by them sustained, at which hearing said Company may also be heard, and shall give notice of such hearing by publication in such newspaper or newspapers, as said court may direct, once a week during each of the three weeks prior to the date of said hearing, and shall give such further notice, if any, as said court may direct. At the time and place fixed for said hearing, or at any adjournment therefrom the commissioners, or a majority of them, shall proceed to hear said persons, including said Company, with their allegations and proofs and may examine the premises; and shall make a just appraisal of the damages sustained by said persons by reason of the taking of said land, interests in land, or other rights as aforesaid. And the commissioners, or a majority of them, shall, as soon as may be, make report of their doings and of the damages, if any, assessed by them, to said court, with their fees marked

thereon, which fees, being first allowed by the court, shall be forthwith paid by said Company. The owner or owners of any land, interests in land, or other rights not taken under the provisions of this act, who are entitled to compensation by law by reason of any taking under the provisions hereof, shall have the right to claim and recover such damages and the same shall be determined and collectible in the same manner as herein provided for determining and collecting the damages for land, interests in land, or other rights taken hereunder.

Sec. 6. Upon the receipt of any report of said commissioners, the clerk of said court shall file the same, and shall give public notice by advertisement for such time and in such newspaper or newspapers as said court may prescribe, that such report has been filed and that the same may be examined by any person interested therein; and either said Company, or any other person aggrieved by any award of damages made by the said commissioners, or refusal of award by said commissioners, may claim a jury trial upon any item of damages thereby awarded or refused, and may file a claim for such trial with the clerk of said court at any time within thirty (30) days of the date of the first publication of notice as aforesaid. Any such claim shall stand for trial by jury, upon proper issue based upon such claim, as other civil cases upon the docket of said court, and shall be tried therein in every respect as other civil cases are therein tried, including the right to except to rulings and to apply for a new trial for cause, and to prosecute bill of exceptions. But if the person claiming such jury trial shall not therein

obtain an award more favorable to such person than that given by the commissioners, such person shall pay costs to the adverse party unless otherwise ordered by said court; and if any person claiming such jury trial shall obtain therein an award more favorable than that given by the commissioners, such person shall recover his, her or its costs from the adverse party.

Sec. 7. The report of the commissioners shall be confirmed by the court, after being so corrected as to conform to the findings of the jury in cases where a jury trial is claimed; and upon such confirmation, execution or executions for the damages fixed by said report as confirmed shall issue against said Company as upon a judgment, in due course of law, and shall be paid forthwith.

Sec. 8. Said Company may abandon any land, interests in land, or other rights taken under the provisions of this act, by filing a notice of such abandonment in the office of the clerk of the court in which the proceedings hereinbefore provided are pending, at any time before confirmation of the report of the commissioners appointed to assess damages. If said Company shall not have entered upon, taken possession of, or used the land, interests in land, or other rights, prior to the filing of such notice of abandonment, all proceedings for the assessment of damages for the taking of the land, interests in land, or other rights so abandoned shall cease, and said Company shall pay to any person who has established an interest in said land, interests in land, or other rights so abandoned all his costs incurred in prosecuting the damages for the taking of said land, interests in land, or other

rights up to the time of such abandonment, which costs shall be taxed by the clerk. If said Company shall have entered upon, taken possession of, or used said land, interests in land, or other rights, so abandoned prior to such abandonment, and the assessment of damages for the same is then pending before commissioners or a jury, then, upon such abandonment, said Company shall have the right to give such abandonment in evidence in diminution of damages, paying costs, if the question of damages is pending, on claim of jury trial, notwithstanding a diminution of damages in consequence of such abandonment given in evidence; or if the commissioners or a jury have finally assessed the damages, said Company shall have a right to a revision of the assessment and to a reassessment, by petition to the commissioners, in order that the diminution of damages in consequence of such abandonment may be considered with right of any person who has established an interest in said land, interests in land, or other rights, to claim a jury trial as in case of the original assessment.

Sec. 9. Whenever the land, interests in land, or other rights of which any infant or other person not capable in law to act in his own behalf is the owner of record or in which he has an interest are taken by said Company under the provisions of this act, the court before which the proceedings for such taking are pending may appoint a guardian ad litem for such infant or other person, and such guardian may appear and be heard in behalf of such infant or other person at any stage of the proceedings; and such guardian may also, with the advice and consent of the court appointing

him, release to said Company all claims for damages for the land, interests in land, or other rights of such infant or other person so taken. And if there shall be any dispute as to the title of any land, interests in land, or other rights taken under the provisions of this act, or as to the person entitled to receive the damages awarded for such taking, or if the person entitled to receive such damages is uncertain or unknown, said Company may pay such damages into the registry of the court before which such proceedings are pending, with the same effect as to the title of said Company to such land, interests in land, or other rights, as though such damages had been paid to the person or persons entitled to receive the same.

Sec. 10. Any court in which any proceedings under this act shall be pending may from time to time order such other and further notices to be given in addition to those hereinbefore prescribed and make such further orders, not inconsistent with the provisions of this act or with the general laws of the state, as may be required, in the opinion of such court, to protect the rights and interests of the persons having an interest in such proceedings. And any proceedings taken under this act may be amended or corrected at any stage of the proceedings and the time may be extended within which persons interested may file their claims, upon such terms and notice, if any, as the court may prescribe.

Sec. 11. Nothing in this act shall authorize said Company to condemn any water power or water rights or to acquire or take any portion of any public street or highway of any town or city or any land, interests

in land, or other rights that shall have been acquired by any town or city for municipal or public purposes, except in either case in reasonable locations to be approved by the town council or city council of said town or city respectively; nor to exercise any right of condemnation within the limits of the city of Newport or of the towns of Jamestown, Middletown or Portsmouth, nor to condemn any portion of the land, location or right of way of any railroad, street railway or other public utility company, except for the purpose of crossing the same, either above or below grade and of maintaining suitable and convenient supports for such crossing, in such manner as not to render unsafe, or to impair the usefulness of, such land, location or right of way for railroad or street railway purposes or the purposes of such public utility company. If said Company and any such railroad, street railway or public utility company are unable to agree as to the method and manner of the construction and maintenance of any such crossing, either may apply to the Public Utility Administrator for a determination thereof, and, after hearing, such crossing shall be constructed and maintained in such method and manner as may be ordered by said Public Utility Administrator. Either party aggrieved by such order of said Public Utility Administrator may appeal therefrom in the manner provided by law. Said Company shall be liable to any such railroad, street railway or public utility company for such damages and reasonable expense as may result to it by reason of any line or lines of said Company crossing such railroad, street railway or public utility company's land, location or right of way.

Sec. 12. The commissioners appointed as hereinbefore provided shall each receive such compensation for their services as shall be fixed by said court which shall be paid by said Company and all the costs of any and all hearings incurred by such commissioners, including the cost of counsel for the owners of land, interests in land or other rights taken under the provisions of this act, subject to approval of said court, shall be paid by said Company.

Sec. 13. Said Company may sell and convey any land, interests in land, or other rights taken by it hereunder and any line or lines, poles, wires, conduits or other appurtenances and appliances placed thereon to any other corporation, company or association having the right to carry on an electric lighting, heating or power business in this state, or may enter into an agreement giving to any such corporation, company or association the right to use such land, interests in land, or other rights for the purposes for which the same were taken or may agree to use said land, interests in land, or other rights for any such corporation, company or association for the purposes for which the same were taken.

Sec. 14. Nothing in this act contained shall be deemed to repeal, abridge or modify the provisions of the public utilities act or any related acts now in force; and said public utility administrator shall have continuing control over said Company in the operation of the lines erected, constructed or extended under the authority of this act as well as over the lines which said Company now operates or may hereinafter

operate in the streets and highways or elsewhere, under any authority.

Sec. 15. The act incorporating said Company and all acts in amendment thereof or in addition thereto are hereby amended in accordance with the foregoing provisions of this act.

Sec. 16. This act shall take effect upon its passage.

AN ACT in Amendment of and in Addition to an Act
Entitled "An Act in Amendment of an Act, En-
titled 'An Act to Incorporate United Electric Power
Company,' Passed at the January Session, 1926, and
the Several Acts in Amendment Thereof and Relat-
ing Thereto."

76-S 2806
Approved
June 4, 1976.

It is enacted by the General Assembly as follows:

Section 1. Section 1 of the act entitled "An act in amendment of an act, entitled 'An act to incorporate United Electric Power Company', passed at the January session, 1926, and the several acts in amendment thereof and relating thereto" passed at the January session of the general assembly, A.D. 1964, as amended, is hereby further amended as follows:

The Narragansett Electric Company (hereinafter called "said company") a corporation created by an act of the general assembly passed at its January session A.D. 1926 under the name of United Electric Power Company (which name was changed by authority of an act in amendment of said act passed at the January session A.D. 1927) is hereby authorized and empowered to exercise the right of eminent domain for the purpose of taking any land, interest in land, or other rights necessary or desirable for the erection, construction, extension, installation, main-

tenance, alteration, use or operation from time to time of a line or lines for the transmission of currents of electricity of eleven thousand volts or more, and substations for the transmission and distribution of electricity and for the erection, construction, extension, installation, maintenance, alteration, use or operation of such poles, towers, wires, conduits, structures, machinery, equipment and other appurtenances and appliances, including buried ground wires, as may be necessary or desirable for such line, ~~or~~ lines, or substations, in the manner and subject to the conditions hereinafter provided in this act, subject to first obtaining an order from the public utility administrator permitting the filing of a petition in accordance with section 2 hereof.

Sec. 2. The act entitled "An act in amendment of an act, entitled 'An act to incorporate United Electric Power Company,' passed at the January session, 1926, and the several acts in amendment thereof and relating thereto", passed at the January session of the general assembly, A.D. 1964, as amended, is hereby further amended by adding thereto the following section:

"Section 13.1. In determining whether an exercise of the right of eminent domain is necessary or desirable to enable the company to carry on its business, or is necessary or desirable to the company for its purposes, the public utility administrator, public utilities commission or the court, as the case may be, may make such determination even though the construction or use of the transmission line, or sub-station necessitating the exercise of the right of eminent domain may

also be necessary or desirable for transmission or distribution of currents of electricity on behalf of one or more other electric utilities, domestic or foreign, irrespective of the form of ownership of said utility or utilities."

In the event the right of eminent domain is exercised and there is no agreement upon the sum to be paid for the value of the land or other real property so taken and of appurtenant damage to any remainder or for the value of the estate right or interest therein, then upon application of the party in interest to the court, the court shall order paid forthwith to the party or parties so applying for or on account of the just compensation to be awarded upon petition for the assessment of damages, not less than seventy-five per cent (75%) of the acquiring party's final offer pending final disposition of the petition for assessment of damages. The verdict and the judgment thereafter entered shall not include any interest upon such amount that shall have been paid on account of just compensation for any period of time from and after thirty (30) days following the making in writing of the acquiring party's final offer.

Sec. 3. This act shall take effect upon its passage