

SNOWY MOUNTAINS HYDRO-ELECTRIC POWER.

No. 31 of 1958.

An Act to amend the *Snowy Mountains Hydro-electric Power Act 1949-1956*.

[Assented to 21st May, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Snowy Mountains Hydro-electric Power Act 1958*. Short title and citation.

(2.) The *Snowy Mountains Hydro-electric Power Act 1949-1956** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Snowy Mountains Hydro-electric Power Act 1949-1958*.

* Act No. 25, 1949, as amended by No. 47, 1951; No. 35, 1952; No. 69, 1955; and No. 45, 1956.

Commence- ment.	2. This Act shall come into operation on a date to be fixed by Proclamation.
Parts.	3. Section three of the Principal Act is amended by omitting the words— “Part V.—Finances of the Authority (Sections 25-32).” and inserting in their stead the words— “Part V.—Finances of the Authority (Sections 25-31). Part VA.—Reports (Sections 32-32B).”.
Definitions.	4. Section four of the Principal Act is amended— (a) by inserting after the definition of “temporary officer” the following definition:— “‘the Agreement’ means the agreement between the Commonwealth, the State of New South Wales and the State of Victoria a copy of which is set out in the First Schedule to this Act and, except in section five A of this Act, includes any agreement relating to the Guthega project entered into in accordance with clause twenty-two of the Agreement;”; and (b) by adding at the end thereof the following definition:— “‘the Supplemental Agreement’ means the agreement between the Commonwealth, the State of New South Wales and the State of Victoria a copy of which is set out in the Second Schedule to this Act.”.
	5. After section five of the Principal Act the following sections are inserted:—
Approval of Agreements.	“5A.—(1.) The Agreement is approved. “ (2.) The Supplemental Agreement is approved.
Certain rights of South Australia not affected.	“5B. Nothing in this Act shall be taken to affect the rights of the State of South Australia under the agreements copies of which are set out in the Schedules to the <i>River Murray Waters Act 1915-1954</i> .”.
The Snowy Mountains Area.	6. Section six of the Principal Act is amended— (a) by omitting from sub-section (1.) the words “area of land” and inserting in their stead the words “area or areas of land”; and (b) by adding at the end thereof the following sub-sections:— “ (3.) A Proclamation under this section does not operate to vary the boundaries of the Snowy Mountains Area so as to include land which was not included in that Area at the date of commencement of this sub-section unless the variation is

made with the prior approval of the Governor-in-Council of the State of New South Wales and the Governor-in-Council of the State of Victoria.

“(4.) Where a Proclamation under this section making a variation in the boundaries of the Snowy Mountains Area recites the prior approval of the Governor-in-Council of the State of New South Wales and the Governor-in-Council of the State of Victoria to that variation, the recital is evidence of the approvals so recited.”.

7. Section sixteen of the Principal Act is repealed and the following section inserted in its stead:—

“ 16.—(1.) The functions of the Authority are—

Functions of
the Authority.

(a) with the object of assisting to ensure that adequate supplies of electricity are available, in time of war as well as in time of peace, in the States of New South Wales and Victoria and in the Australian Capital Territory for purposes necessary or conducive to the defence of the Commonwealth and for other purposes of the Commonwealth, to provide hydro-electric works in the Snowy Mountains Area for the generation of electricity; and

(b) with the object specified in the last preceding paragraph, and as incidental to its functions related to that object, to generate, or permit the generation of, electricity in the works of the Authority and to supply, or permit the supply of, electricity generated in those works—

(i) to, or as directed by, the Commonwealth for purposes of the Commonwealth and for consumption in the Australian Capital Territory; and

(ii) to The Electricity Commission of New South Wales and the State Electricity Commission of Victoria or to a corporation succeeding either of those Commissions.

“(2.) Except as otherwise directed by the Governor-General, the Authority may have, perform or exercise a capacity, function, power, authority or duty conferred or imposed upon it by an Act of the Parliament of the State of New South Wales or the State of Victoria.

“(3.) The Authority shall comply in all respects with the provisions of the Agreement and of the Supplemental Agreement that are applicable to it.”.

Appointment
of officers.

8. Section twenty-two of the Principal Act is amended by omitting from sub-section (5.) the words "One thousand five hundred pounds" and inserting in their stead the words "Two thousand five hundred pounds".

9. Section twenty-five of the Principal Act is repealed and the following section inserted in its stead:—

Power to
borrow
money.

"25.—(1.) The Authority may borrow money for temporary purposes on overdraft from the Commonwealth Bank of Australia, or from such other bank as the Treasurer approves, upon the guarantee of the Treasurer.

"(2.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Authority of such amounts and on such terms as the Treasurer, having regard to the provisions of clause fifteen of the Agreement, determines.

"(3.) Except with the consent of the Treasurer, the Authority shall not borrow money otherwise than in accordance with this section."

Bank accounts.

10. Section twenty-six of the Principal Act is amended by adding at the end thereof the following sub-section:—

"(2.) The Authority shall pay all moneys received by it into an account referred to in this section."

11. Sections twenty-seven and twenty-eight of the Principal Act are repealed and the following sections inserted in their stead:—

Application
of moneys.

"27.—(1.) Subject to the next succeeding sub-section, the moneys of the Authority—

(a) shall be applied by the Authority—

(i) in payment or discharge of the expenses and other obligations of the Authority;

(ii) in payment of the salaries and allowances of the Commissioner and of the Associate Commissioners and of any Acting Commissioner; and

(iii) in repayment of advances made to the Authority by the Treasurer under this Act in accordance with the terms upon which those advances were made; and

(b) may, with the approval of the Treasurer, be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank or in securities of the Commonwealth.

"(2.) Moneys of the Authority to which paragraph (i) of sub-clause (2.) of clause fifteen of the Agreement applies may be invested in accordance with that paragraph.

“ (3.) The Treasurer may, on behalf of the Commonwealth, accept deposits made by the Authority in accordance with the last preceding sub-section, and pay or credit interest on those deposits to the Authority in accordance with the Agreement.

“ 28.—(1.) The Authority shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of the Authority and the incurring of liabilities of the Authority. Proper accounts to be kept.

“ (2.) The accounts and records of the Authority shall show such matters as are necessary for the purposes of the Agreement or the Supplemental Agreement.

“ 28A.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Authority and shall forthwith draw the Minister's attention to any irregularity revealed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing. Audit.

“ (2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

“ (3.) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Authority relating directly or indirectly to the receipt or payment of moneys by the Authority or to the acquisition, receipt, custody or disposal of assets of the Authority.

“ (4.) The Auditor-General or a person authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

“ (5.) The Auditor-General or a person authorized by him may require the Commissioner or an Associate Commissioner or an officer or employee of the Authority to furnish him with such information in the possession of the Commissioner, Associate Commissioner, officer or employee, or to which the Commissioner, Associate Commissioner, officer or employee has access, as the Auditor-General or authorized person considers necessary for the purposes of an inspection or audit under this Act, and the Commissioner, Associate Commissioner, officer or employee shall comply with the requirement.”.

12. Section thirty of the Principal Act is repealed. Reserves.

13. Section thirty-two of the Principal Act is repealed. Price for supply and sale of electricity.

14. After Part V. of the Principal Act the following Part is inserted:—

“PART VA.—REPORTS.

Authority to
keep Minister
informed.

“32. The Authority shall from time to time inform the Minister concerning the general conduct of its operations.

Minister may
require
information.

“32A. The Authority shall furnish to the Minister such information relating to its operations as the Minister requires.

Annual report
of Authority.

“32B.—(1.) The Authority shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report on its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

“(2.) Before furnishing the financial statements to the Minister, the Authority shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the finances of the Authority;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Authority during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

“(3.) The Minister shall lay the report and financial statements of the Authority, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.”.

Authority in
execution of
works to do as
little damage
as possible.

15. Section thirty-three of the Principal Act is amended by inserting after sub-section (3.) the following sub-sections:—

“(3A.) If the owner of land along the Upper Murray or along the Lower Tumut suffers loss by flooding from temporary works of the Authority in relation to that land, the Authority shall be liable to pay compensation to the owner.

“(3B.) In the last preceding sub-section, ‘loss by flooding from temporary works of the Authority’ means loss directly resulting from the raising of the level of the Upper Murray or of the Lower Tumut by the discharge of waters from works of the Authority other than permanent works of the Authority.

“(3C.) Expressions used in the last two preceding subsections (other than the expression ‘loss by flooding’) which are defined in the Agreement or the Supplemental Agreement have the same meanings as in the Agreement or the Supplemental Agreement, as the case may be.

“(3D.) For the purposes of rights to compensation under this section, where anything has been done by, or under the authority of, the Authority and the doing of that thing was authorized both by this Act and by a State Act, that thing shall be conclusively presumed, as against the Authority, to have been done in pursuance of this Act.

“(3E.) Nothing in this section shall be construed as excluding or limiting any liability of the Authority apart from this section in respect of a matter in relation to which compensation is not payable under this section.”.

16. Section thirty-seven of the Principal Act is repealed and the following section inserted in its stead:—

“37.—(1.) Except as prescribed, a person shall not, in the Snowy Mountains Area, carry out any work, or make any use of the water in a lake, river or stream, whereby any works, or proposed works, of the Authority, or the use, or proposed use, of water in the works of the Authority, is or may be injuriously affected or interfered with.

Works of
Authority not
to be injuriously
affected.

“(2.) Without prejudice to any civil remedy available to the Authority, a person who contravenes the last preceding subsection is guilty of an offence against this section.

“(3.) An offence against this section may be prosecuted either summarily or upon indictment.

“(4.) The punishment for an offence against this section is—

- (a) where the offence is prosecuted summarily—a fine not exceeding One hundred pounds; or
- (b) where the offence is prosecuted upon indictment—a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding one year.

“(5.) Nothing in this section shall be deemed to prevent or affect the operation of a provision in a law of a State prohibiting any acts which are also prohibited by this section.”.

17. Sections thirty-nine and forty of the Principal Act are repealed.

Repeal of
Sections 39 and
40.

18. The Principal Act is amended by adding at the end thereof the following Schedules:—

Schedules.

THE SCHEDULES.

FIRST SCHEDULE.

Section 4.

AN AGREEMENT made this Eighteenth day of September One thousand nine hundred and fifty-seven BETWEEN THE COMMONWEALTH OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of the second part, and THE STATE OF VICTORIA of the third part:

WHEREAS the Authority was constituted by the *Snowy Mountains Hydro-electric Power Act 1949* of the Commonwealth:

AND WHEREAS for the purpose of performing its functions under section 16 of the Act the Authority has power to construct, maintain, operate, protect, manage and control works for the collection, diversion and storage of water in the Area, for the generation of electricity in the Area, and for the transmission of electricity so generated:

AND WHEREAS one of the necessary results of the construction and operation of those works will be the diversion inland into the Murray or Murrumbidgee River systems or both of a substantial flow of water which has been flowing to the sea in the Snowy River in the State of Victoria:

AND WHEREAS much of the augmented flow of the Murray and Murrumbidgee river systems would be wasted unless storage works are constructed and operated so as to regulate further the flow of both rivers and make increased supplies of water available for irrigation:

AND WHEREAS the Governments of the States have set up Electricity Commissions with power to generate and supply electricity, and, inter alia, to purchase electricity:

AND WHEREAS at a conference between Ministers of the Commonwealth and of the States held in Canberra on the thirteenth day of July, One thousand nine hundred and forty-nine, certain resolutions were adopted with respect to the development and use of the water resources of the Area for the generation of electricity and, as consequential thereon, for the provision of water for irrigation and the sharing of the waters between the States:

AND WHEREAS those resolutions contemplated, among other things, that the following works for the collection, storage and diversion of water would be carried out in their entirety, namely:—

- (a) a dam on the Eucumbene River (a tributary of the Snowy River), near Adaminaby, for the storage of waters of the Eucumbene River and of any waters conveyed from the catchments of other rivers to the storage provided by that dam;
- (b) a tunnel primarily for the diversion from the storage dam on the Eucumbene River to the Tumut River catchment of waters of the Eucumbene River (estimated at a net average volume of approximately 235,000 acre-feet of water per annum), but also for the diversion of such other waters as are conveyed, by that tunnel or by other means, to the storage provided by that dam;
- (c) a dam on the Snowy River, near Jindabyne, for the storage of waters of the Snowy River and of any waters conveyed from the catchments of other rivers to the storage provided by that dam;
- (d) a tunnel primarily for the diversion from the dam on the Snowy River to the River Murray catchment of waters of the Snowy River (estimated at a net average volume of approximately 730,000 acre-feet of water per annum), but also for the diversion of such other waters as are conveyed, by that tunnel or by other means, to the storage provided by that dam;
- (e) a tunnel and other associated works for the diversion to the Tumut River catchment of waters of the Tooma River, a tributary of the River Murray, (estimated at a net average volume of approximately 330,000 acre-feet of water per annum) and of such other waters as are conveyed to the Tooma River:

AND WHEREAS the States will require to construct works for the use of the water made available and the electricity produced by the works of the Authority:

AND WHEREAS the River Murray Commission has made certain recommendations regarding the location and capacity of additional storage required to regulate the waters diverted into the River Murray catchment from the Snowy River:

FIRST SCHEDULE—*continued.*

AND WHEREAS, as the result of conferences between them, Ministers of the Commonwealth and the States have agreed to the modification of the resolutions previously referred to, and to the provisions for the construction maintenance and operation of the works of the Authority, as set out in this agreement:

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows:—

PART I—GENERAL.

1. In this agreement, unless the contrary intention appears—

Interpretation.

- “the Act” means the *Snowy Mountains Hydro-electric Power Act 1949-1956* of the Commonwealth and, if that Act is amended after the date of the execution of this agreement, includes such amendments thereof as are made pursuant to sub-clause (5.) of clause 2 of this agreement and such further amendments as may be approved by the Governor-in-Council of each of the States;
- “the Adaminaby storage” means the water storage on the Eucumbene River provided by the work known as the Adaminaby Dam;
- “the Area” means, subject to clause 3 of this agreement, the Snowy Mountains Area as defined from time to time in accordance with section 6 of the Act;
- “the Authority” means the Snowy Mountains Hydro-electric Authority constituted as a corporation sole by the Act and includes any corporation succeeding that corporation;
- “the Commonwealth” means the Commonwealth of Australia;
- “the Commonwealth requirements of electricity” means the electrical energy and power required from time to time by the Commonwealth—
 - (i) for consumption in the Australian Capital Territory; and
 - (ii) for use within the Area in an establishment, works or undertaking maintained or operated by or on behalf of the Commonwealth or an authority of the Commonwealth or for defence purposes within the Area;
- “the cost of production of the Authority” and “the net cost of production of the Authority” shall have the meanings respectively assigned to them in clause 15 of this agreement;
- “the Council” means the Snowy Mountains Council constituted in accordance with Part VI of this agreement;
- “Electricity Commission” means the Electricity Commission of New South Wales or the Electricity Commission of Victoria, as the case may require, and “the Electricity Commissions” means the Electricity Commission of New South Wales and the Electricity Commission of Victoria;
- “the Electricity Commission of New South Wales” means The Electricity Commission of New South Wales constituted under the *Electricity Commission Act 1950* of that State, and includes any corporation succeeding that Commission;
- “the Electricity Commission of Victoria” means the State Electricity Commission of Victoria constituted under the *State Electricity Commission Acts* of that State, and includes any corporation succeeding that Commission;
- “financial year” means a period of twelve months ending on the thirtieth day of June;
- “the Forestry Commission” means the Forestry Commission of New South Wales constituted under the *Forestry Act 1916-1951* of that State, including any corporation succeeding it, or the Forests Commission constituted under the *Forests Acts* of the State of Victoria, including any corporation succeeding it, as the case may require;
- “generating stations” means power stations, switchyards and transmission facilities in the works of the Authority which are used for the generation and transmission of electricity, other than those works primarily intended for supply of power for its construction works;
- “the Guthega agreement” and “the Guthega Project” shall have the meanings respectively assigned to them in clause 22 of this agreement;
- “the Irrigation Authority of New South Wales” means The Water Conservation and Irrigation Commission constituted under the *Irrigation Act 1912-1954* of the State of New South Wales, and includes any corporation succeeding that Commission;

FIRST SCHEDULE—*continued.*

- "the Kosciuszko State Park" means the land permanently reserved for a State Park by section 3 of the *Kosciuszko State Park Act 1944-1947* of the State of New South Wales as amended from time to time;
- "the Kosciuszko State Park Trust" means the Trust constituted by that name under the said *Kosciuszko State Park Act 1944-1947* of the State of New South Wales as amended from time to time;
- "the Minister" means the Minister of State of the Commonwealth for the time being administering the Act;
- "net power" means the total power in kilowatts capable of being produced by the permanent works of the Authority or a stage of those works, as the case may require, less the amount of power used pursuant to paragraph (a) of sub-clause (4.) of clause 14 of this agreement;
- "net production of electrical energy" means the total production of electrical energy from the permanent works of the Authority or a stage of those works, as the case may require, less the amount of electrical energy used pursuant to paragraph (a) or supplied pursuant to paragraph (b) of sub-clause (4.) of clause 14 of this agreement;
- "permanent works of the Authority" means works of the Authority other than works primarily required by the Authority for construction purposes, and "its permanent works" shall have a corresponding meaning;
- "the reserved Commonwealth requirements of electricity" means that portion of the Commonwealth requirements of electricity which is notified as reserved pursuant to sub-clause (1.) of clause 14 of this agreement from the production of the permanent works of the Authority or of a stage of those works, as the case may require, or that portion as varied from time to time pursuant to that clause;
- "river" and "tributary" respectively include any affluent, effluent, creek, ana-branch or extension of the river or tributary, any lake, lagoon, swamp or marsh connected with the river or tributary, and any natural water-course so connected in which water flows continuously, intermittently or occasionally;
- "the River Murray Agreement" means "the Agreement" as defined in the *River Murray Act 1915-1954* of the Commonwealth, and as that agreement is amended from time to time;
- "the River Murray Commission" means the Commission appointed by that name for the purpose of the River Murray Agreement, and of the Acts ratifying that agreement, and includes any corporation succeeding that Commission;
- "stage" in relation to the permanent works of the Authority means, unless otherwise agreed by the parties to this agreement, such work or mutually associated group of works the construction of which allows or will allow the total output of power available from the permanent works of the Authority to be increased by not less than 50,000 kilowatts or the total average annual output of electrical energy from those permanent works to be increased by not less than 100,000,000 kilowatt hours, but, notwithstanding anything contained in the foregoing provisions of this definition, each of the following works shall be deemed to constitute a stage:—
- (a) the project described in item 3 of the schedule to this agreement,
 - (b) the project described in item 4 of the schedule to this agreement,
 - (c) the Guthega Project,
 - (d) any power station erected pursuant to sub-clause (2.) of clause 5 of this agreement, and
 - (e) any power station erected pursuant to sub-clause (2.) of clause 6 of this agreement;
- "surplus electrical energy" means the net production of electrical energy less the reserved Commonwealth requirements of electrical energy;
- "surplus power" means net power less the power in kilowatts included in that part of the reserved Commonwealth requirements of electricity which is taken by the Commonwealth from the permanent works of the Authority pursuant to sub-clause (3.) of clause 14 of this agreement;
- "the States" means the States of New South Wales and Victoria; and

FIRST SCHEDULE—*continued*.

“works of the Authority” means works (including the works included in the schedule to this agreement and the Guthega Project) the construction of which has been or is undertaken by or on behalf of the Authority for the purposes of this agreement, and “its works” shall have a corresponding meaning.

2.—(1.) This agreement, other than sub-clause (2.) of this clause, shall have no force or effect and shall not be binding on any of the parties hereto unless and until it is approved by the respective Parliaments of the Commonwealth and the State of New South Wales and the State of Victoria, but, upon being so approved by those Parliaments, it shall be of full force and effect and binding on the parties. Approval of agreement.

(2.) The Governments of the Commonwealth and the States hereby agree to submit this agreement for approval to their respective Parliaments as soon as practicable after the date of this agreement.

(3.) (a) The Commonwealth shall—

- (i) provide for the execution by it of its obligations;
- (ii) secure the execution by the Authority of its obligations—

arising pursuant to this agreement.

(b) Each of the States shall—

- (i) provide for the execution by it of its obligations;
- (ii) secure the execution by its instrumentalities of their obligations—

arising pursuant to this agreement.

(4.) The Government of each of the States agrees to include in the legislation submitted to its Parliament for the approval of this agreement—

- (a) a provision in such form as will enable the Authority for the purpose of giving effect to this agreement to do in that State all such matters and things as the Act permits, or purports to permit, the Authority to do, and to exercise all such powers and authorities in that State as may be necessary to enable the provisions of this agreement to be carried out in their entirety; and
- (b) a provision in such form as will enable the Council—
 - (i) to exercise all such powers and authorities in that State as may be necessary to enable the provisions of this agreement to be carried out in their entirety; and
 - (ii) to sue and be sued.

(5.) The Government of the Commonwealth agrees to include in the legislation submitted to its Parliament for the approval of this agreement provisions repealing or appropriately amending those sections of the Act which are inconsistent with this agreement.

3. No land of a State additional to that contained in the Area as defined at the date of this agreement shall be included in any proclamation by the Governor-General varying the boundaries of the Area in accordance with section 6 of the Act without the prior approval of the Governors-in-Council of the States.

PART II—CONSTRUCTION OF WORKS.

4.—(1.) The Authority is authorized to construct or cause to be constructed those works for the collection, storage and diversion of waters in the Area and for the generation in the Area of electricity from those waters which together constitute the undertaking known as the Snowy Mountains Hydro-electric Scheme. Construction of Works by the Authority.

(2.) The Authority shall, in or in connexion with the construction of the works authorized by sub-clause (1.) of this clause provide for—

- (a) waters of the Eucumbene River (estimated at a net average volume of approximately 235,000 acre-feet of water per annum) to be diverted to the Tumut River catchment;
- (b) waters of the Snowy River (estimated at a net average volume of approximately 730,000 acre-feet of water per annum) to be diverted to the River Murray catchment; and
- (c) waters of the Tooma River a tributary of the River Murray (estimated at a net average volume of approximately 330,000 acre-feet of water per annum) to be diverted to the Tumut River catchment.

FIRST SCHEDULE—*continued.*

(3.) In the exercise of the powers conferred by sub-clause (1.) of this clause, the Authority shall in accordance with this agreement determine what works for the collection, storage and diversion of waters in the Area and for the generation in the Area of electricity from those waters shall be constructed.

(4.) Where notification of the details of electricity from a stage of the permanent works of the Authority has been given to the Electricity Commissions pursuant to clause 14 of this agreement, the Authority shall proceed with the construction of that stage so as to ensure as far as reasonably practicable that electricity will be produced of the amounts and at the times estimated by the Authority as so notified.

(5.) (a) Subject to sub-clause (4.) of this clause, the Authority shall if it so elects be relieved of its obligations under sub-clause (2.) of this clause if—

- (i) either of the States has made default in complying with its obligations under this agreement and fails to remedy that default within a reasonable time after being required by the Commonwealth by notice in writing to do so; or
- (ii) the provisions of paragraph (c) of sub-clause (3.) of clause 15 are operating in favour of an Electricity Commission; or
- (iii) it is estimated by the Authority that, if works projected by the Authority are constructed, then the provisions of paragraph (c) of sub-clause (3.) of clause 15 of this agreement would operate in favour of an Electricity Commission.

(b) Notwithstanding anything in sub-clause (4.) of this clause, but subject to sub-clause (7.) of this clause, the Authority shall be relieved of its obligations (whether arising under sub-clause (2.) or sub-clause (4.) of this clause or under both those sub-clauses) in respect of particular works if the Commonwealth notifies the States in writing of its intention to direct the Authority not to proceed with the construction of those works. Where any such direction is given, interest shall cease to accrue on the capital invested in those works (whether the same is capital expenditure directly chargeable to those works or is an appropriate allocation of capital expenditure not directly chargeable in full to those works) during the period for which construction of those works is suspended.

(6.) The Authority shall not exercise its election under sub-paragraph (ii) or sub-paragraph (iii) of paragraph (a) of sub-clause (5.) of this clause if both Electricity Commissions have pursuant to paragraph (d) of sub-clause (3.) of clause 15 permanently waived or agreed with the Authority to modify their rights under paragraph (c) of the sub-clause last-mentioned.

(7.) The Commonwealth shall not, pursuant to paragraph (b) of sub-clause (5.) of this clause, notify the States of its intention to direct the Authority not to proceed with the construction of a stage of its permanent works under this agreement if the result of not constructing that stage would be that the amount of electrical energy and power that the Electricity Commissions might reasonably expect to receive from the production of that stage of the permanent works of the Authority in the period of six years commencing on the date of that notification would be reduced.

(8.) An Electricity Commission shall, if requested by the Authority at any time so to do, furnish to the Authority such information as is reasonably necessary to enable the Authority to estimate whether the net cost of production of the Authority will be fully met having regard to the operation of paragraph (c) of sub-clause (3.) of clause 15 of this agreement.

(9.) Nothing contained in this clause shall extend to authorize the discontinuance of the operation and maintenance of the completed permanent works of the Authority.

(10.) (a) Nothing contained in this agreement shall be construed as derogating from, or as adding to or extending, the right of the Commonwealth (apart from this agreement and the State legislation contemplated by it) in the exercise of its legislative and other powers, to procure the Authority to construct or cause to be constructed, or to arrange otherwise for the construction of, any works in the Area for the collection, storage or diversion of water, for the generation of hydro-electric power or for the transmission of the electrical energy so generated.

FIRST SCHEDULE—continued.

(b) To the extent to which any such works are constructed under the authority of clause 10 of the agreement ratified and confirmed by the *Seat of Government Acceptance Act* 1909-1955 of the Commonwealth and the *Seat of Government Surrender Act* 1909 of the State of New South Wales, they shall be a satisfaction pro tanto of the rights of the Commonwealth under that clause.

5.—(1.) After the completion of works of the Authority which provide for the diversion of approximately 730,000 acre-feet of water annually from the Snowy River to the River Murray catchment, the Authority shall, at its option—

Construction of Works on the River Murray.

(a) for the purpose of regulating the diverted water before it enters the Hume Reservoir, provide, as soon as practicable, between the Hume Reservoir and the point where the diverted water is discharged from the works of the Authority (other than the works constructed pursuant to this sub-clause and sub-clause (2.) of this clause) into a stream feeding or joining the River Murray, a balancing storage work for the storage of not less than 250,000 acre-feet of water; or

(b) within five years after the completion of that diversion, contribute to the River Murray Commission an amount equal to one-half the cost of increasing the capacity of the Hume Reservoir from 2,000,000 to 2,500,000 acre-feet of water.

(2.) The Authority shall have the right to install, at any storage constructed in accordance with paragraph (a) of sub-clause (1.) of this clause, a generating station of such capacity as it may determine.

(3.) Except as provided in this clause and in clause 13 of this agreement, the Commonwealth and the Authority shall not be under any responsibility for regulating the waters diverted by the works first referred to in this clause after their discharge into a stream feeding or joining the River Murray above the Hume Reservoir.

6.—(1.) The State of New South Wales shall for the purpose of regulating waters of the Tumut River and the waters diverted thereto from the Eucumbene, Tooma or Murrumbidgee River catchments—

Construction of Works by the State of New South Wales.

(a) as soon as is practicable construct, or cause to be constructed, storage works on the Tumut River at Blowering or at such other site on that river, and of such capacity, as that State determines;

(b) at all times maintain and keep those works in good order and condition.

(2.) The Authority shall have the right to install at this storage a generating station of such capacity as it may determine.

(3.) If requested by the Authority before the State commences the construction of the said storage works so to do, the State shall, in the construction of works under this clause, make provision for the installation by the Authority of a generating station pursuant to the last preceding sub-clause.

(4.) The Authority shall contribute such proportion of the cost of the works to be constructed under this clause as is agreed upon, after the site and capacity of the storage works and the capacity of the generating station referred to in this clause have been determined, by the Commonwealth and the State of New South Wales.

PART III—CONTROL, DIVERSION AND STORING OF WATERS.

7. The discharge of waters from a balancing storage work constructed in accordance with sub-clause (1.) of clause 5 of this agreement shall at all times be under the control of the River Murray Commission.

Discharge of waters from Storage Works in Upper Murray catchment.

8. The operation of, and the discharge of water from, the storage works referred to in clause 6 of this agreement shall at all times be under the control of the State of New South Wales.

Operation of Storage Works on Tumut River.

9. Where, after the construction (in whole or in part) of the works known as the Murrumbidgee-Eucumbene Diversion, waters of the Murrumbidgee River are stored in those works or those waters are diverted to the Eucumbene River, then, until such time as the storage referred to in clause 6 of this agreement has been completed, if the Burrinjuck Reservoir has not at some time during the six

Restriction on diversions from Tumut River.

FIRST SCHEDULE—*continued.*

months preceding the first day of October in a particular year reached ninety-five per centum of its full capacity, the Council shall, if and as required by the Irrigation Authority of New South Wales, provide for the release into the Tumut River of such amounts of water that—

- (a) after the completion of the work known as the T.1. Project and until the completion of the work known as the T.2. Project, the flow of water in the Tumut River immediately below the point where the water from the work known as the T.1. Project joins the Tumut River shall, during the period commencing on the first day of October of that year and ending on the thirtieth day of the succeeding April, be not less than 10,000 acre-feet per week; and
- (b) after the completion of the work known as the T.2. Project, the flow of water in the Tumut River immediately below the point where the water from that work joins the Tumut River shall, during the period commencing on the first day of October of that year and ending on the thirtieth day of the succeeding April, be not less than 10,000 acre-feet per week, and the total amount of water released shall be not less than the amount required to provide an average flow during the whole of the said period of not less than 15,000 acre-feet per week.

Diversions from
the Tooma and
Snowy Rivers.

10.—(1.) The States agree that the quantity of water diverted from the Tooma River to the Adaminaby storage and to the Tumut River by the works of the Authority shall—

- (a) for the purposes of clause 45 of the River Murray Agreement be deemed to be water diverted by works of the States from a tributary of the River Murray above Albury and to have been so diverted as to one-half of that quantity by each of the States; and
- (b) for the purposes of clause 51 of that agreement be deemed to be water used as to one-half of that quantity by each of the States.

(2.) Until such time as the necessary works have been constructed to enable water diverted from the Tooma River to the Adaminaby storage and to the Tumut River to be replaced by water diverted from the Snowy River to a stream feeding or joining the River Murray above Hume Reservoir—

- (a) the State of Victoria shall be entitled in each month to divert and use from the River Murray a volume of water equal to one-half of the quantity of water so diverted from the Tooma River in the preceding month. In order to enable that diversion and use, the State of New South Wales shall provide from the Murrumbidgee River a volume of water equivalent to one-half of the quantity so diverted from the Tooma River which volume shall, for the purpose of meeting the obligations of the State of Victoria under the River Murray Agreement, be treated in all respects as if it had been contributed by a tributary of the River Murray in the territory of Victoria joining that River below Albury;
- (b) if so required by the Irrigation Authority of New South Wales, the Council shall, during a declared period of restriction within the meaning of clause 51 of the River Murray Agreement, provide for the release into the Tumut River of such amounts of water that the flow of the Tumut River immediately below the point where the water from the work known as the T.1. Project joins the Tumut River shall be not less than 70,000 acre-feet per month, provided that the total quantity of water so released shall not exceed the quantity which has been diverted from the Tooma River by works of the Authority since the Hume Reservoir last previously overflowed or, if it did not overflow within a period of eighteen months immediately before the commencement of the declared period of restriction, the quantity which has been so diverted during the said period of eighteen months.

(3.) As soon as the necessary works have been constructed to enable water diverted from the Tooma River to the Adaminaby storage and to the Tumut River to be replaced by water diverted from the Snowy River to a stream feeding or joining the River Murray above the Hume Reservoir, sub-clause (2.) of this clause shall cease to have any effect and thereafter the amount of water so diverted in any year from the Snowy River shall not be less than the amount of water diverted from the Tooma River to the Adaminaby storage and to the Tumut River

FIRST SCHEDULE—*continued.*

in that year, and so much of the water so diverted from the Snowy River in any year as is required to replace the water diverted from the Tooma River to the Adaminaby storage and to the Tumut River in that year shall be accepted by each of the States as replacing the water so diverted from the Tooma River to the Adaminaby storage and to the Tumut River in that year.

11. When the necessary works have been constructed to enable water diverted from the Tooma River to the Adaminaby storage and to the Tumut River to be replaced by water diverted from the Snowy River to a stream feeding or joining the River Murray above the Hume Reservoir, the Council shall, unless it is otherwise agreed with the River Murray Commission, provide for the release into the River Murray from the works of the Authority during a declared period of restriction within the meaning of clause 51 of the River Murray Agreement an amount of water, in addition to the quantities of water released into the River Murray to replace the water diverted from the Tooma River to the Adaminaby storage and to the Tumut River during the declared period of restriction pursuant to sub-clause (1.) of clause 10 of this agreement, not less than 40,000 acre-feet multiplied by the number of months of the declared period of restriction up to a maximum amount of 280,000 acre-feet.

Regulation of
Discharge from
Storage Works.

12.—(1.) As consideration for accepting the responsibility specified in sub-clause (3.) of this clause, the State of Victoria shall, as provided by sub-clause (2.) of this clause, receive a share of the water diverted from the Snowy River catchment to the River Murray catchment.

Sharing of
waters.

(2.) The quantity of water diverted from the Snowy River catchment to the River Murray catchment shall, subject to the provisions of clause 10 of this agreement and to any further agreement that may be made between the States, be shared equally between the States.

(3.) On the State of Victoria becoming entitled to receive a share of water pursuant to this clause, that State shall not require any water to be released down the Snowy River from any storage under the control of the Authority, and will accept sole responsibility for the construction, operation and maintenance of any works within that State on the Snowy River or in the Snowy River catchment which are found necessary by reason of the diversion of water from the Snowy River catchment into either or both of the Murrumbidgee and Murray Valleys and for any consequences within that State of the loss of water or stream flow due to that diversion, and will indemnify the Authority against all claims in respect of or arising out of the loss of water or stream flow in Victoria due to that diversion.

PART IV—PROTECTION OF CATCHMENT AREAS.

13.—(1.) In investigating, planning, locating and constructing works in the Area for the conservation and storage of water and for the generation and transmission of electricity, and for purposes incidental thereto, the Authority shall—

Protection of
catchment areas
and of timber.

(a) in consultation with the appropriate authorities of the States, and having regard to the effects of the operation of the permanent works of the Authority—

(i) take reasonable precautions for the prevention of any resultant erosion of soil, or resultant erosion of the bed and banks of, or deposit of silt in the bed of, any river or stream in the Area or of the River Murray between the point where the diverted water enters the River Murray and the Hume Reservoir, or the storage constructed in accordance with paragraph (a) of sub-clause (1.) of clause 5 of this agreement if that storage is constructed, and in particular, unless the Authority pursuant to the said paragraph constructs a storage which, in the opinion of the Council, fulfils the obligations of the Authority under this sub-paragraph, provide works for the regulation of diurnal fluctuations of discharge from its works to the Swampy Plain River and the River Murray within limits agreed upon between the Authority and the riparian States or in default of agreement determined by the Council; and

(ii) if any such harmful erosion or deposit of silt should occur, take appropriate action with respect thereto;

FIRST SCHEDULE—*continued.*

- (b) so locate buildings, camps, construction townships and works to provide services to those buildings, camps and townships, and so operate those services, that the rivers within the Area are not seriously affected by erosion, siltation or pollution of the waters;
 - (c) so far as it is within its power, cause its officers, employees and servants and all persons transacting business with it, including its contractors and their employees, to occupy for residential purposes, including camping, only such sites as are allotted by the Authority as sites for residential purposes;
 - (d) so far as it is within its power, prevent the erection on any site allotted by the Authority as a site for residential purposes of any permanent building that does not conform with the standard determined by the Authority as the standard in accordance with which buildings in the Area shall be erected;
 - (e) take precautions, in conformity with the Acts and Regulations applicable in the State for the prevention of damage to, or destruction of, forests, trees, shrubs or grasses by fire from any works or camps under its control or operated by any contractor engaged on work for or on behalf of the Authority;
 - (f) make arrangements to ensure that a properly equipped bush-fire fighting organization is available to operate where any work of a major character is being performed under this agreement in the Area and at each township and camp (other than a temporary camp of a minor character) therein;
 - (g) not destroy or remove trees, timber or scrub to any greater extent than is necessary for the effective exercise of its powers or performance of its duties under the Act and this agreement;
 - (h) take steps to ensure that its officers, employees and servants, and its contractors and their employees and persons conducting any business on behalf of, or with the permission of, the Authority will obtain timber for firewood only from such sites as are allotted by the Authority as sites from which firewood may be obtained;
 - (i) exercise all proper care in the preservation of natural assets in all areas where timber for works, buildings, townships or camps or for any other purpose of the Authority is obtained otherwise than from a sawmiller licensed by the Forestry Commission or other proper authority of the State concerned;
 - (j) prior to commencement of timber-getting operations in New South Wales or Victoria, confer with the Forestry Commission of the appropriate State or, where timber is required from within the Kosciusko State Park, with the Kosciusko State Park Trust, with a view to reaching agreement as to areas to be worked;
 - (k) keep the Kosciusko State Park Trust fully informed of such work to be carried out within the boundaries of the Kosciusko State Park as may affect the Park, and in carrying out of any such work exercise all proper care to preserve natural assets, including trees, scrub, grasses and beauty spots in the Park;
 - (l) confer with the appropriate Forestry Commission as to fees or royalties to be paid for timber or for use of sites, timber areas to be worked, sites to be used or allotted for works or residential purposes, in any proclaimed forest in New South Wales or Victoria; and
 - (m) make provision for access and crossings over race-lines for extraction of timber, fire protection and the like as may reasonably be required by the appropriate State authorities.
- (2.) The Council, in directing and controlling the operation and maintenance of the permanent works of the Authority, the Authority in manning its works other than the generating stations, and the Electricity Commissions in manning the generating stations, shall observe the requirements, *mutatis mutandis*, which the Authority is required to observe under sub-clause (1.) of this clause, so far as they are relevant.

FIRST SCHEDULE—*continued.*

PART V—GENERATION AND SUPPLY OF ELECTRICITY.

14.—(1.) (a) As soon as practicable, but in any event not less than five years prior to the estimated date of production of electricity from a stage of its permanent works (not being one included in the works set out in the Schedule to this agreement), the Authority shall give the Electricity Commissions details of—

Generation
supply of
electricity.

- (i) the estimated net production of electrical energy and the estimated net power available from that stage of its permanent works;
- (ii) the part of the Commonwealth requirements of electricity which the Commonwealth reserves from the production of that stage of the permanent works of the Authority; and
- (iii) the estimated amount of surplus electrical energy and surplus power which will be available to the Electricity Commissions from the production of that stage of the permanent works of the Authority.

(b) Within a reasonable time after the commencement of this agreement, the Authority shall in respect of each of those stages of the permanent works of the Authority which comprise the projects described in items 3 and 4 of the schedule to this agreement and that stage which comprises the Guthega Project, give to the Electricity Commissions the same details of electricity as those specified in the last preceding paragraph and those details shall be deemed to have been given pursuant to the preceding paragraph in relation to the respective stages of the permanent works.

(c) The details of electrical energy and power to be notified by the Authority in accordance with this sub-clause shall include estimates by the Authority of—

- (i) the amounts of the respective shares of the Electricity Commissions pursuant to paragraphs (a) and (b) of sub-clause (5.) of this clause in the surplus electrical energy, in terms of minimum, average and maximum electrical energy, and in the surplus power, in terms of kilowatts, which will be available per annum, and in each month of the year, from the stage of the permanent works of the Authority when in full operation, and during the period from the commencement of operation until full operation is attained;
- (ii) the cost of construction of, and the net cost of the production of electricity from, that stage of the permanent works of the Authority; and
- (iii) the date of first production of electricity from, and the date of full operation of, that stage of the permanent works.

(d) The amount of the reserved Commonwealth requirements of electricity may, at any time, with the written consent of the Electricity Commission or Electricity Commissions affected by the alteration, be altered by the Commonwealth, and those reserved requirements for purposes of this clause and the estimated amounts of surplus electrical energy and surplus power which the Electricity Commissions are entitled to receive pursuant to sub-clause (5.) of this clause, shall be deemed to be altered appropriately from that time.

(e) Ten years after a stage of the permanent works of the Authority comes into full operation, and at intervals of ten years thereafter, the Authority may amend its estimates of the net production of electrical energy and net power which will be available from that stage and of the amounts of the shares of the Electricity Commissions in the surplus electrical energy and in the surplus power which will be available from that stage in which event the amounts of those shares shall be deemed to be amended accordingly.

(2.) (a) The Commonwealth shall, at the time when the Authority, pursuant to sub-clause (1.) of this clause, notifies the Electricity Commissions of the reserved Commonwealth requirements of electricity from a stage of the permanent works of the Authority, and at the times when the reserved Commonwealth requirements of electricity are altered pursuant to paragraph (d) of the last preceding sub-clause, request an Electricity Commission or the Electricity Commissions to supply the reserved Commonwealth requirements of electricity in nominated proportions.

(b) Unless within three months after the receipt of a request from the Commonwealth under the last preceding paragraph to supply the nominated part of the reserved Commonwealth requirements of electricity an Electricity Commission informs the Commonwealth that it is impracticable for that Commission to do so, that Electricity Commission shall supply, and the Commonwealth shall take, that

FIRST SCHEDULE—*continued.*

electricity at the point or points within the Australian Capital Territory or within or near the Area nominated by the Commonwealth and at the cost of transmission, in which event that Electricity Commission shall be entitled to receive free of charge from the electrical energy produced from the works of the Authority, in addition to that Electricity Commission's share of surplus electrical energy and any energy supplied in accordance with paragraph (b) of sub-clause (4.) of this clause, the same amount of electrical energy as that supplied by the Commission pursuant to this paragraph.

(c) For the purposes of this sub-clause, "the cost of transmission" means the cost which would be incurred by the Electricity Commission concerned in transmitting through its transmission system to the nominated points from the point or points of supply from the permanent works of the Authority to that Commission an amount of electrical energy equivalent to that supplied to the Commonwealth under the last preceding paragraph, including the cost of the electricity lost in that transmission.

(3.) (a) If an Electricity Commission has notified the Commonwealth in accordance with paragraph (b) of sub-clause (2.) of this clause that it is not practicable to comply with the Commonwealth's request to supply the nominated part of the reserved Commonwealth requirements of electricity, or if the Commonwealth and the States so agree, the Commonwealth shall have the right to arrange for the generation of the whole or a part of that nominated part of the reserved Commonwealth requirements of electricity from works of the Authority, and for the transmission of that electricity direct to the Commonwealth in or near the Area or in the Australian Capital Territory, in which event—

- (i) the Council shall issue the necessary directions to that end;
- (ii) the cost of transmission shall be borne by the Commonwealth; and
- (iii) the estimated amounts of surplus power which the Electricity Commissions are entitled to receive, pursuant to sub-clause (5.) of this clause shall be deemed to be altered appropriately from the time when the Commonwealth takes the electricity so transmitted.

(b) If, because of a notification by an Electricity Commission under the last preceding paragraph, the Commonwealth obtains the right to arrange for the generation and transmission of an amount of electricity direct to the Commonwealth, the reserved Commonwealth requirements of electricity may be reduced by the Commonwealth to the extent of such part of that amount as the Commonwealth does not arrange to be so generated and transmitted, and the estimated amounts of surplus electrical energy and surplus power which the Electricity Commissions are entitled to receive, pursuant to sub-clause (5.) of this clause, shall be deemed to be altered appropriately from the time of notification by the Commonwealth to the Authority of that reduction.

(4.) (a) Any electricity generated from the permanent works of the Authority may be used for the purposes of the construction, maintenance or operation of the works of the Authority, and the Council shall issue the necessary directions to that end.

(b) The Authority may, from time to time, request an Electricity Commission to supply electricity for use by the Authority or its contractors for the establishment or extension of the works of the Authority within the Area, and that Electricity Commission shall be entitled to receive free of charge in addition to its share of the surplus electrical energy and any energy supplied in accordance with paragraph (b) of sub-clause (2.) of this clause the same amount of electrical energy as that supplied by the Commission pursuant to this paragraph.

(5.) (a) Subject to the next two succeeding paragraphs, the Electricity Commissions shall be entitled to share surplus electrical energy in the proportion of two-thirds to the Electricity Commission of New South Wales and one-third to the Electricity Commission of Victoria, and to share surplus power in proportion to their respective total entitlements of electrical energy pursuant to this paragraph and to paragraph (b) of sub-clause (2.) of this clause and paragraph (b) of sub-clause (4.) of this clause.

(b) Until the construction of the works for the collection, storage and diversion of waters in the Area associated with the diversions referred to in paragraphs (a), (b) and (c) of sub-clause (2.) of clause 4 of this agreement and the works for the generation of electricity from those waters has been completed, each Electricity

FIRST SCHEDULE—*continued.*

Commission shall be entitled to share surplus electrical energy and surplus power in the proportions set out in the preceding paragraph, unless that sharing would, in the opinion of the Council, result in a significant adverse effect on the overall economy of electricity supply, in which event the proportions will, subject to the next succeeding paragraph, and without prejudice to paragraph (b) of sub-clause (2.) and paragraph (b) of sub-clause (4.) of this clause, be determined by the Council, but the proportions will not be altered by reason of a determination of the Council under this paragraph except at a time when the Authority gives to the Electricity Commissions details of the production of electricity from a stage of its works pursuant to sub-clause (1.) of this clause.

(c) The entitlement of an Electricity Commission to its share of the surplus electrical energy and surplus power under paragraph (a) of this sub-clause shall not be reduced by a determination of the Council pursuant to the last preceding paragraph during any period in respect of which that Commission has, pursuant to paragraph (d) of sub-clause (3.) of clause 15 of this agreement, waived or agreed with the Authority to modify its rights under paragraph (c) of that sub-clause.

(d) The Electricity Commissions shall be entitled to take during each month not less than their respective shares of the estimated minimum amount of surplus electrical energy notified to the Electricity Commissions by the Authority pursuant to sub-clause (1.) of this clause as available to them respectively during that month and, if more electrical energy is available during that month, the whole of their respective shares of that extra energy up to but not exceeding the estimated maximum amount notified to the Electricity Commissions as aforesaid, and shall for the purpose of sub-clause (1.) of clause 15 of this agreement be deemed to have taken their respective shares of the estimated average surplus electrical energy notified as aforesaid.

(e) If the Council is satisfied that the interests of none of the parties to this agreement or their respective instrumentalities will be prejudiced thereby, the Council shall arrange for the generation of the combined requirements of the Electricity Commissions of electricity from the permanent works of the Authority at whatever rate and over whatever periods the respective Electricity Commissions may desire to take the electricity.

(f) Subject to sub-clause (1.) of clause 16 of this agreement, the Electricity Commissions may, from time to time, agree between themselves, either generally or in particular circumstances, to share the surplus electricity in such proportions as they may desire, but when any such agreement is made then for the purpose of the calculations pursuant to sub-clause (3.) of clause 15, account shall be taken of the benefits to that Electricity Commission resulting from the sharing of electricity pursuant to this paragraph and any dispute as to the value of the said benefits to an Electricity Commission for the purpose of the said calculations shall, in default of agreement between the Authority and that Electricity Commission, be determined by arbitration in accordance with the laws in force in the State in which that Electricity Commission is incorporated.

(g) In order to meet an emergency, an Electricity Commission may take more or less electrical energy than it is entitled to take under paragraph (d) of this sub-clause and more power than the share of the surplus power to which it is entitled under paragraph (a) or (b) of this sub-clause if the Council determines that that can be done without prejudicing the interests of the parties to this agreement and subject to subsequent appropriate adjustment of the entitlements to electricity of the Electricity Commissions.

(6.) The electricity to be supplied to each Electricity Commission under this clause will be supplied at a voltage or voltages, and at a point or points within or adjacent to the Area, to be agreed upon between the Authority and the respective Electricity Commissions, or in default of agreement to be determined by the Council.

(7.) If at any time the Commonwealth requires for defence or research purposes abnormally large amounts of electricity intermittently for short periods, in addition to the reserved Commonwealth requirements of electricity, the Council and the Electricity Commissions shall make arrangements to meet those additional requirements as expeditiously and economically as practicable, and as far as possible at times of minimum demand by the Commissions, and shall make electricity available for those purposes under special conditions to be agreed upon having regard to the circumstances existing from time to time or in default of agreement to be determined as fair by the Council.

FIRST SCHEDULE—*continued.*

(8.) (a) Nothing in this agreement shall be construed as derogating from the rights conferred upon the Commonwealth as against the State of New South Wales by the agreement ratified and confirmed by the *Seat of Government Acceptance Act* 1909-1955 of the Commonwealth and nothing in this agreement shall affect the rights of the State of Victoria in the waters of the Snowy River except as to storages and diversions authorized pursuant to this agreement.

(b) The Commonwealth will not exercise its rights under clause 10 of the agreement ratified and confirmed by the *Seat of Government Acceptance Act* 1909-1955 while the reserved Commonwealth requirements of electricity are being fully supplied by the Electricity Commissions under sub-clause (2.) of this clause except so far as it is necessary to do so to enable the Commonwealth to exercise its legislative and other powers in accordance with sub-clause (10.) of clause 4 of this agreement.

(c) The supply of the reserved Commonwealth requirements of electricity under and in accordance with this clause shall, to the extent of such supply, be accepted by the Commonwealth as a satisfaction, *pro tanto*, of the rights of the Commonwealth under clause 10 of the agreement ratified and confirmed by the *Seat of Government Acceptance Act* 1909-1955 of the Commonwealth and the *Seat of Government Surrender Act* 1909 of the State of New South Wales.

Charges for
electricity.

15.—(1.) (a) In this agreement “the net cost of production of the Authority” in a financial year means the cost of production of the Authority in that year, determined in accordance with sub-clause (2.) of this clause, less the value, determined in accordance with paragraph (za) of sub-clause (2.) of this clause, of the electrical energy used or supplied in that year pursuant to sub-clause (4.) of clause 14 of this agreement for the establishment or extension (but not the maintenance or operation) of the permanent works of the Authority.

(b) The Commonwealth shall pay to the Authority in respect of each financial year an amount which bears the same proportion to the net cost of production of the Authority for that year as the reserved Commonwealth requirements of electricity for that year in terms of electrical energy bear to the estimated average net production of electrical energy from the permanent works of the Authority notified pursuant to clause 14 of this agreement and appropriate to that year.

(c) Subject to sub-clause (3.) of this clause, each Electricity Commission shall pay to the Authority in respect of each financial year an amount which bears the same proportion to the net cost of production of the Authority for that year as the share of the estimated average surplus electrical energy for that year which that Electricity Commission is deemed to have taken pursuant to paragraph (d) of sub-clause (5.) of clause 14 of this agreement bears to the estimated average net production of electrical energy from the permanent works of the Authority notified pursuant to clause 14 of this agreement and appropriate to that year.

(d) An Electricity Commission may, on terms to be agreed upon between it and the Authority, increase the amount payable in respect of a financial year pursuant to the last preceding paragraph.

(e) Accounts based on the estimated net cost of production of the Authority for the relevant year, in respect of the amounts due by the Electricity Commissions pursuant to paragraph (c) of this sub-clause shall be rendered monthly and shall be paid within thirty days after receipt of the account. An annual adjustment account shall be rendered to each Electricity Commission upon completion of the annual accounts of the Authority to take account of the difference (credit or debit) between the total of the monthly charges and the net cost of production of the Authority for that year.

(2.) (a) In this agreement, “the cost of production of the Authority” in a financial year shall consist of—

- (i) interest in respect of that year on the net amount invested in each stage of the permanent works of the Authority from which stage electricity is generated in that year; plus
- (ii) an instalment (calculated as provided in paragraph (p) of this sub-clause) in respect of that year of the amount of accumulated interest attributable to each such stage; plus

FIRST SCHEDULE—*continued.*

- (iii) depreciation attributable to each such stage in respect of that year calculated as provided in paragraphs (q), (r), (s) and (u) of this sub-clause; plus
 - (iv) maintenance charges (assessed as provided in paragraph (z) of this sub-clause) attributable to each such stage in respect of that year; plus
 - (v) costs attributable to the operation in that year of each such stage; minus
 - (vi) any miscellaneous credits of a current nature accruing to the Authority in respect of that year and attributable to each such stage.
- (b) In respect of advances made by the Commonwealth to the Authority prior to the date of this agreement and such other advances as are made up to a date (in this sub-clause referred to as "the change-over date") to be determined by the Commonwealth after consultation with the States having regard to the economics of the Snowy Mountains Hydro-electric Scheme at the second-mentioned date in the next succeeding paragraph—
- (i) interest will be calculated on the basis that on each advance made by the Commonwealth simple interest will accrue until such time as the stage of the works to which that advance is charged or allocated first commences the production of electricity; and
 - (ii) interest will not be charged upon the accrued interest on advances charged or allocated to a stage of the works nor shall that accrued interest be included in the net capital expenditure of the Authority but, when that stage commences the production of electricity, that accrued interest shall be payable as provided in this sub-clause.
- (c) The change-over date shall not be before the date which is the mid-point of the first twelve-monthly period in which the permanent works of the Authority have been so far completed that the total of the amounts of the estimated average monthly net production of electrical energy from those permanent works as so far completed, in accordance with the notifications of the Authority pursuant to clause 14 of this agreement relating to the production of electricity from those permanent works, exceeds 3,000,000,000 kilowatt hours for that twelve-monthly period
- PROVIDED that if the construction of the permanent works of the Authority takes place at a different rate or in a different sequence to the rate or sequence upon which the notifications are based or if the works are brought into operation in phases different from the phases upon which the notifications are based the date second-mentioned in this paragraph will be appropriately adjusted.
- (d) The net amount invested at any time in a stage of the permanent works of the Authority shall consist of the gross amount invested in that stage at that time less the amount repaid by the Authority to the Commonwealth up to that time in respect of that gross amount (including any amount so repaid prior to the date of this agreement).
- (e) The amounts received by the Authority in respect of the depreciation charges referred to in sub-paragraph (iii) of paragraph (a) of this sub-clause shall be paid to the Commonwealth by the Authority as soon as reasonably possible after receipt thereof and shall, for the purposes of paragraph (d) of this sub-clause, be deemed to be amounts repaid by the Authority to the Commonwealth in respect of the gross amount invested.
- (f) The gross amount invested at any given time up to and including the change-over date in a stage of the permanent works of the Authority shall, subject to paragraphs (v), (w) and (x) of this sub-clause, consist of:—
- (i) that part of the net capital expenditure (whether incurred before or after the commencement of this agreement) of the Authority up to that given time, excluding accumulated interest on that expenditure, which is directly chargeable in full to that stage; and
 - (ii) an appropriate allocation of that part of the net capital expenditure (whether incurred before or after the commencement of this agreement) of the Authority up to that given time, excluding accumulated interest on that expenditure, which is not directly chargeable in full to a stage of the permanent works of the Authority, after having regard, for the purpose of determining the appropriate allocation, to the effect of accumulated interest accrued up to that given time and accruing after that given time on so much of that expenditure as is not allocated to the stage first-mentioned in this paragraph.

FIRST SCHEDULE—*continued.*

(g) The gross amount invested at any given time after the change-over date in a stage of the permanent works of the Authority shall, subject to paragraphs (v), (w) and (x) of this sub-clause, consist of:—

- (i) the gross amount invested in that stage at the change-over date as determined in accordance with paragraph (f) of this sub-clause;
- (ii) that part of the net capital expenditure, if any, of the Authority incurred between the change-over date and the given time, including capitalised interest accrued up to that given time on that part, which is directly chargeable in full to that stage; and
- (iii) an appropriate allocation, if any, of that part of the net capital expenditure of the Authority between the change-over date and the given time, including capitalised interest accrued up to that given time on that part, which is not directly chargeable in full to a stage of the permanent works of the Authority, after having regard, for the purpose of determining that appropriate allocation, to the effect of any capitalised interest accruing after that time on so much of that expenditure as is not allocated to that first-mentioned stage.

(h) In determining the appropriate allocations referred to in paragraphs (f) and (g) of this sub-clause, the Authority shall have regard to the views of the Council concerning the principles that should be followed in allocating capital expenditure amongst stages of the permanent works of the Authority.

(i) For the purpose of ascertaining the rate of interest on and the period of the loans which rate and period are to be taken into account in determining—

- (i) the interest referred to in sub-paragraph (i) of paragraph (a) of this sub-clause attributable to any year;
- (ii) the amount of accumulated interest referred to in sub-paragraph (ii) of paragraph (a) of this sub-clause; and
- (iii) the amount of capitalised interest accrued and accruing on expenditure of the Authority after the change-over date,

there shall be observed, subject to this sub-clause, the general principle that each advance made by the Commonwealth to the Authority (including each advance so made prior to the date of this agreement) is a loan by the Commonwealth to the Authority for a period corresponding to the period of the long-term public loan last raised in Australia by the Commonwealth prior to the date on which that advance was made and at a rate of interest not greater than the interest rate of that last-mentioned loan.

(j) Any funds to the credit of the maintenance equalization account referred to in paragraph (z) of this sub-clause which are not immediately required to meet maintenance costs may be invested by the Authority in any securities in which trustees may lawfully invest trust funds or by deposit with the Commonwealth Treasurer.

(k) The interest allowed on funds deposited with the Treasurer in accordance with the last preceding paragraph, whilst they remain so deposited and until such time as it appears to the Commonwealth Treasurer, on the advice of the Authority, that no further advances will be required by the Authority from the Commonwealth for the construction of new permanent works of the Authority, shall be at a rate ascertained in accordance with the general principle set out in paragraph (i) of this sub-clause applying to an advance by the Commonwealth to the Authority. After that time the interest allowed on funds so deposited shall be as agreed between the parties to this agreement but if the parties cannot reach agreement as to the rate to be allowed the amount so deposited shall, if so required by either or both of the States, be refunded to the Authority.

(l) Capitalised interest on net capital expenditure of the Authority comprising advances made after the change-over date shall be determined in accordance with the principle that any amount due as interest on an advance made by the Commonwealth to the Authority to meet expenditure of the Authority after that date if not paid shall on the due date be added to the advance and for the purposes of this sub-clause be treated in all respects as part of that advance.

(m) For the purposes of sub-paragraph (i) of paragraph (a) of this sub-clause, interest in respect of a financial year on the net amount invested in a stage of the permanent works of the Authority from which stage electricity is generated in that year shall be chargeable on the net amount invested in that stage from time to time during that year, provided that in the case of a stage of the permanent

FIRST SCHEDULE—*continued.*

works of the Authority which last-mentioned stage first comes into operation for the generation of electricity after the commencement of that year interest shall not be chargeable in respect of the period before the time when the last-mentioned stage first comes into operation for the generation of electricity.

(n) For the purposes of this sub-clause, the amount of accumulated interest attributable to a stage of the permanent works of the Authority from which stage electricity is generated in a financial year shall consist of the amount of accumulated interest accrued on so much of the gross amount invested in that stage as represents expenditure of the Authority comprising advances made prior to the change-over date.

(o) Accumulated interest accrued and accruing on expenditure of the Authority comprising advances made prior to the change-over date shall be calculated in accordance with the principle that interest is not chargeable on interest accrued or accruing on advances to meet expenditure of the Authority made by the Commonwealth to the Authority prior to the change-over date.

(p) The instalment referred to in sub-paragraph (ii) of paragraph (a) of this sub-clause shall be calculated in accordance with the principle that the amount of accumulated interest attributable to a stage of the permanent works of the Authority, determined in accordance with paragraphs (n) and (o) of this sub-clause, is to be written off in seventy equal annual instalments.

(q) Depreciation will be charged in respect of a financial year on the gross amount invested in each stage of the permanent works of the Authority which is in operation for the generation of electricity, excluding that part of that gross amount which comprises investment by the Authority in replacement assets.

(r) The depreciation charged pursuant to the last preceding paragraph in respect of each stage shall be the sum of—

(i) the amount which if invested annually over a period of 70 years from the time when that stage first comes into operation for the generation of electricity at compound interest calculated at the average rate payable on the amount owing by the Authority to the Commonwealth (excluding accumulated interest on expenditure prior to the change-over date) at that time would amount to the gross amount invested in that stage at that time;

(ii) the respective amounts which if invested annually over periods of 70 years from the respective times when the gross amount invested in that stage is increased because of the construction by the Authority after the time when that stage first comes into operation for the generation of electricity of additional assets, other than replacement assets, at compound interest calculated at the rate referred to in sub-paragraph (i) of this paragraph would amount to the respective amounts of those increases;

(iii) an amount equal to the compound interest which would accrue with respect to that financial year calculated at the rate referred to in sub-paragraph (i) of this paragraph on the balance of depreciation with respect to that stage, which balance shall be the sum of the amounts of depreciation charged in previous years with respect to that stage pursuant to this paragraph and the next succeeding paragraph less that portion of the gross amount invested in that stage which comprises the cost of assets which have been replaced up to the beginning of that year by replacement assets.

(s) When the cost of a replacement asset is different from the cost of the asset which it replaces, an adjustment will be made to the depreciation chargeable in respect of the appropriate stage or stages of the permanent works of the Authority on the general principle that additions or deductions shall, as the case may require, be made to or from the amount or amounts referred to in sub-paragraphs (i) and (ii) of paragraph (r) of this sub-clause, as the case may require, with regard to that stage or those stages of amounts the total of which, if invested annually over a period of years to be determined by the Council at compound interest calculated at the average rate payable on the amount owing by the Authority to the Commonwealth (excluding accumulated interest on expenditure of the Authority prior to the change-over date) at the time of such replacement would equal the difference between the cost of the replacement asset and the cost of the asset which it replaces.

FIRST SCHEDULE—*continued.*

(*r*) For the purposes of this sub-clause, replacement assets are assets which replace assets forming part of the permanent works of the Authority from which electricity is being generated and the cost of which is not debited against the maintenance equalization account.

(*u*) When as a result of the operation of paragraphs (*d*), (*e*), (*q*), (*r*) and (*s*) of this sub-clause the total depreciation calculated with respect to a financial year would have the result that the net amount invested in a stage of the permanent works of the Authority would be decreased to zero, the parties to this agreement will confer and determine the principles on which depreciation will be calculated in respect of that year and subsequent years.

(*v*) In respect of a stage of its permanent works which stage is brought into operation for the generation of electricity in two or more phases the Authority may if it thinks fit having regard to the views of the Council determine that the gross amount invested in that stage shall be brought into account in separate sums, and the sums which are for that purpose to be deemed appropriate to each such phase other than the final phase.

The sum so determined in respect of any such phase other than the final phase shall be an amount which is not less than the amount which bears the same proportion to the amount which the Authority estimates will be the gross amount invested in that stage up to and including the final phase as the annual production of electricity from the phase concerned, at the time to which the determination relates, bears to the estimated average annual production of electrical energy from that stage at the final phase.

(*w*) Where a determination is made in accordance with paragraph (*v*) of this sub-clause, the sum determined in respect of each phase other than the final phase shall, for the purposes of this sub-clause, be brought into account in all respects as if such phase constituted a separate stage.

(*x*) Where a determination is made in accordance with paragraph (*v*) of this sub-clause then for the purpose of bringing the sum determined in respect of a phase other than the final phase into account as the gross amount invested in that phase, that sum shall be deemed to consist of the appropriate proportions of each of the advances invested in the permanent works of the Authority (including, in the case of advances to the Authority after the change-over date, capitalised interest) which advances would comprise the gross amount invested in the stage at the time when the phase came into operation for the generation of electricity.

The principles outlined in this paragraph shall be applied in determining in respect of a phase—

- (i) the interest referred to in sub-paragraph (i) of paragraph (*a*) of this sub-clause; and
- (ii) the amount of accumulated interest referred to in sub-paragraph (ii) of the same paragraph.

(*y*) A determination made by the Authority in accordance with paragraph (*v*) of this sub-clause shall not cause the net cost of production in any year to be greater than it would have been if no such determination had been made.

(*z*) (i) The Authority shall keep in its books a maintenance equalization account to which shall be credited the maintenance charges referred to in sub-paragraph (iv) of paragraph (*a*) of this sub-clause and to which shall be debited the maintenance expenditure from year to year.

(ii) The maintenance charges referred to in the said sub-paragraph (iv) will be assessed on the basis of substantially equal charges in respect of the relevant stage from year to year and with the object of avoiding as far as practicable, excessive charges in any particular year or years.

(iii) If and when the maintenance equalization account is in credit to the extent of approximately £300,000, the maintenance charges will be reviewed with the object of limiting those charges in such manner as to maintain the credit at approximately £300,000.

(iv) At the expiration of five years from the date of this agreement and thereafter at intervals of five years or at such shorter periods as the Council may determine, the Council shall review the amount mentioned in sub-paragraph (iii) of this paragraph and in that event the maintenance charges shall be adjusted having regard to the amount fixed consequent upon such review.

FIRST SCHEDULE—*continued.*

(v) Interest paid or received by or allowed to the Authority on the amount to the debit or credit, as the case may be, of the maintenance equalization account from time to time shall be debited or credited, as the case may be, to that account.

(za) The value of the electrical energy referred to in paragraph (a) of sub-clause (1.) of this clause shall be calculated as an amount which bears the same proportion to the cost of production of the Authority in the financial year concerned as that electrical energy bears to the sum of that electrical energy and the estimated average net production of electrical energy from the permanent works of the Authority notified pursuant to clause 14 of this agreement and appropriate to that year, such permanent works being works then completed and ready for use.

(zb) A certificate by the Auditor-General of the Commonwealth as to the net cost of production of the Authority in a financial year calculated in accordance with sub-clauses (1.) and (2.) of this clause shall be conclusive as to all numerical calculations involved in determining that cost.

(3.) (a) In respect of every financial year for which an Electricity Commission is required to pay an amount to the Authority pursuant to sub-clause (1.) of this clause, the following amounts may be calculated:—

- (i) the cost to that Electricity Commission of all its electricity including all amounts payable by it under sub-clause (1.) of this clause; and
- (ii) the cost to that Electricity Commission of all its electricity if additional generating plant other than nuclear plant had from time to time been installed by that Electricity Commission to provide a total amount of generating plant sufficient to supply the same total requirements of electricity during that year without receiving any electricity from the works of the Authority, and assuming that such additional generating plant had been installed at the same time as the equivalent stages of the plant installed by the Authority.

Without restricting the generality of the expression "the cost to that Electricity Commission of all its electricity", transmission and transformation costs to load centres will be included therein for the purposes of the calculations required by sub-paragraphs (i) and (ii) of this paragraph.

(b) The calculation of costs pursuant to the last preceding paragraph will be on the basis that for the purpose of arriving at the cost of electricity generated by the generating plant of the Electricity Commission—

- (i) the charges on account of interest on capital on the plant that has not been, but would have been, installed, in lieu of the equivalent stages of the plant installed by the Authority are at the same rates as the charges on account of interest upon the amount invested in those stages made pursuant to sub-clause (2.) of this clause;
- (ii) the charges for depreciation on that generating plant (whether that referred to in sub-paragraph (i) or not) will be calculated as equal annual instalments which, upon a sinking fund basis with interest accumulating at the rate determined pursuant to the last preceding sub-paragraph, will be sufficient to yield the total capital invested in these assets in 33 years in the case of thermal plant, and 70 years in the case of hydro plant; and
- (iii) at the expiration of the period mentioned in the last preceding sub-paragraph, the generating plant will be deemed to have been retired, and costs related thereto will be excluded.

(c) If as a result of the calculations made pursuant to paragraph (a) of this sub-clause the cost mentioned in sub-paragraph (i) exceeds the cost mentioned in sub-paragraph (ii) of that paragraph then the amount which an Electricity Commission is required to pay to the Authority pursuant to paragraph (c) of sub-clause (1.) of this clause shall be reduced by a sum equivalent to such excess.

(d) An Electricity Commission may at any time notify the Authority in writing that it permanently waives its rights under the last preceding paragraph in respect of its share of surplus electrical energy, or agree with the Authority to modify those rights in a manner and in respect of a period which are mutually satisfactory, and those rights shall thereupon be waived or modified accordingly, as the case may be.

FIRST SCHEDULE—*continued.*

(e) If the amount payable by an Electricity Commission in a financial year pursuant to paragraph (c) of sub-clause (1.) of this clause is reduced by the operation of paragraph (c) of this sub-clause, the sum by which it is so reduced will be entered in a suspense account in the name of that Electricity Commission together with interest accruing from time to time on the balance of that account. While any amount is showing in the suspense account of that Electricity Commission, that Electricity Commission will, for each financial year in respect of which the amount calculated for that Electricity Commission under sub-paragraph (ii) of paragraph (a) of this sub-clause exceeds the relevant amount calculated under sub-paragraph (i) of that paragraph, be required to pay, in addition to the other amounts payable by it under this agreement, either an amount equal to the amount of that excess or such other amount as may be agreed upon between that Electricity Commission and the Authority, and the amounts so paid will be applied in reduction of the amount in the suspense account aforesaid.

(f) Interest payable on the sums entered in the suspense account pursuant to the last preceding paragraph shall be treated in the same manner as the interest on advances to the Authority is being treated at that time pursuant to sub-clause (2.) of this clause and be charged at the same rate as the average rate of that interest. If, after the change-over date referred to in paragraph (b) of sub-clause (2.) of this clause, interest on advances made to the Authority after that date charged or allocated to stages of its permanent works from which stages electricity is generated is being treated in a manner other than that described in the said paragraph (b), interest on sums entered in the suspense account in respect of the corresponding period will be similarly treated.

Operation of works.

16.—(1.) Subject to clauses 7 and 8 of this agreement, the operation and maintenance of the permanent works of the Authority shall be under the direction and control of the Council which, in the exercise of these functions, shall be subject to any directions of the Minister.

(2.) (a) For the purpose of implementing its directions under sub-clause (1.) of this clause, the Council will appoint an Operations Engineer, who shall be a person nominated by the Authority, and two Assistant Operations Engineers, one of whom shall be a person nominated by the Electricity Commission of New South Wales and one of whom shall be a person nominated by the Electricity Commission of Victoria.

(b) The Operations Engineer shall be remunerated by the Authority and an Assistant Operations Engineer shall be remunerated by the Electricity Commission which nominated him, but the Operations Engineer and the Assistant Operations Engineers shall be the servants, and subject to the orders and directions, of the Council.

(3.) Subject to sub-clause (1.) of this clause, the generating stations shall be manned by the Electricity Commissions, and the Council shall determine, from time to time, which generating stations are to be manned by the respective Electricity Commissions.

(4.) Subject to sub-clause (1.) of this clause, the works of the Authority, other than the generating stations, shall be manned by the Authority.

(5.) The Authority and each of the Electricity Commissions will ensure that its respective officers, agents, servants and employees manning the permanent works of the Authority pursuant to this clause will carry out and comply with the directions of the Council given pursuant to this clause.

(6.) As between the parties to this agreement, the Council shall be responsible for any directions given by it (whether on the directions of the Minister or not) or by the Operations Engineer or an Assistant Operations Engineer, and for the acts and omissions, in or in connexion with the operation and maintenance of the permanent works of the Authority, of the Council, the Operations Engineer, the Assistant Operations Engineers, the Authority and the Electricity Commissions, and of the officers, agents, servants and employees of the Council, the Authority and the Electricity Commissions.

(7.) The Authority shall, on being requested by the Council to do so, provide the Council with the funds necessary to meet any expenses incurred by the Council in or in connexion with the operation and maintenance of the permanent works of the Authority, or to enable the Council to pay any amounts which it shall become

FIRST SCHEDULE—*continued.*

liable to pay pursuant to the last preceding sub-clause, and the amounts so provided by the Authority shall be deemed to be part of the net cost of production of the Authority for purposes of clause 15 of this agreement.

(8.) (a) If any claim for damages is made, or if any legal proceedings are instituted, against the Council, the Council shall immediately notify the Authority of that fact, and the Authority shall be entitled, if it so desires, to take over and conduct in the name of the Council the defence or settlement of that claim or those legal proceedings.

(b) The Authority shall have full discretion in the settlement of any claim, or in the conduct of any proceedings, referred to in the last preceding paragraph, and the Council shall give all such information and assistance for that purpose as the Authority may require.

(9.) The expenses incurred by the Electricity Commissions in manning the generating stations in accordance with the directions of the Council shall be reimbursed by the Authority at such intervals and in such manner as may be agreed between the Authority and the respective Electricity Commissions, or in default of agreement determined by the Council, and the expenses so reimbursed shall be deemed to be part of the net cost of production of the Authority for purposes of clause 15 of this agreement.

PART VI—SNOWY MOUNTAINS COUNCIL.

17.—(1.) There shall be a Council to be known as the Snowy Mountains **Constitution.**
Council.

(2.) The Council shall consist of—

- (a) two members appointed by the Minister to represent the Commonwealth, one of whom shall be appointed by the Minister as the Chairman and the other as the Deputy Chairman of the Council;
- (b) two members appointed by the State of New South Wales to represent that State;
- (c) two members appointed by the State of Victoria to represent that State;
- (d) the Commissioner constituting the Authority, or, during any absence of the Commissioner, an Associate Commissioner appointed under the Act; and
- (e) an Associate Commissioner or an officer of the Authority appointed by the Minister on the recommendation of the Authority.

(3.) Whenever a duly appointed member of the Council is unable to attend a meeting of the Council, a deputy appointed by the Minister or State which appointed that member may attend as a member in his place.

(4.) The Minister shall appoint a person to be the Secretary to the Council.

18.—(1.) The Chairman, or in his absence, the Deputy Chairman, shall preside **Meetings.**
at meetings of the Council.

(2.) Meetings of the Council shall be summoned as and when considered desirable by the Chairman, or, in his absence, by the Deputy Chairman, and at such other times as are requested by any two members, but the meetings shall in any event be summoned and held at least once in every six months from the date of the commencement of this agreement.

(3.) No resolution may be adopted unless a representative of each of the Governments and of the Authority is present.

(4.) Subject to the next succeeding sub-clause, questions shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the presiding member shall have a casting as well as a deliberative vote.

(5.) The Associate Commissioner or officer of the Authority appointed by the Minister pursuant to paragraph (e) of sub-clause (2.) of clause 17 of this agreement shall not vote on questions arising in the performance by the Council of its duties and functions under paragraph (b) of sub-clause (2.) or under sub-clause (3.) of clause 19 of this agreement.

(6.) When decisions are not unanimous and a question is decided by a majority vote, the views of the minority shall be recorded, if so requested, and any report or advice on that question shall state the views of the minority.

FIRST SCHEDULE—*continued.*

Duties and
functions of
the Council.

19.—(1.) The Council shall have and may exercise all the duties and functions imposed on it by this agreement and shall be subject to all the responsibilities and liabilities specifically conferred upon it by clauses 13, 14 and 16 of this agreement.

(2.) The duties of the Council shall be—

(a) to direct and control—

(i) the operation and maintenance of the permanent works of the Authority for the control of water and the production of electricity; and

(ii) the allocation of loads to generating stations;

(b) to advise on—

(i) the co-ordination of the works carried out or to be carried out by the Authority with the works carried out or to be carried out by the States for—

(A) the generation and transmission of electricity; and

(B) irrigation; and

(ii) the principles referred to in paragraph (h) of sub-clause (2.) of clause 15 of this agreement; and

(c) to determine the respective periods referred to in paragraph (s) of sub-clause (2.) of clause 15 of this agreement.

(3.) The Council shall if so required by the Government of the Commonwealth or of either of the States make a report on any matter referred to it by that Government and may of its own motion make reports with respect to—

(a) the nature, order, sequence and rate of construction of works of the Authority;

(b) matters affecting the States in respect of the diversion, storage and release of waters by the Authority;

(c) matters affecting the States in respect of the generation, transmission, allocation and use of the electricity generated by the Authority; and

(d) matters affecting the States in respect of catchment areas.

(4.) In carrying out its duties and functions, the Council shall at all times act consistently with the provisions of this agreement.

(5.) All reports or advice under this clause shall be made to the Minister who shall immediately on receipt of any such report or advice arrange for copies of it to be forwarded to the Premiers of the States.

(6.) The Council shall inform the Minister of all decisions made pursuant to its duties specified under paragraph (a) of sub-clause (2.) of this clause.

Information
for Council.

20. To enable the Council to carry out its duties and functions, the Authority shall keep the Council fully informed with respect to—

(a) the nature and costs of all proposed works for the collection, diversion and storage of water and for the generation of electricity in pursuance of the Act or of this agreement;

(b) the sequence, rate and progress of construction of those works;

(c) its proposals for the diversion of waters and the operating procedures;

(d) the position in respect of the waters held or proposed to be held from time to time in storages under the control of the Authority; and

(e) all matters which may affect the interests of the States in respect of the use of those waters and in respect of the generation, transmission, allocation and use of the electricity generated by means of the use of those waters.

Report by
Council.

21. The Council shall present annually to the three Governments not later than the thirty-first day of October in each year a report on its activities for the period of twelve months ending on the preceding thirtieth day of June.

PART VII—THE GUTHEGA PROJECT.

Separate
agreement
as to Guthega
Project.

22.—(1.) Notwithstanding anything contained in this agreement, the Authority and the Electricity Commission of New South Wales may enter into an agreement (in this clause called "the Guthega agreement") with regard to the generation and supply to that Commission of the whole of the electricity from that part of the works of the Authority, being the pondage, tunnel, penstock, power station and works ancillary thereto, known as the Guthega Project (in this agreement called "the Guthega Project").

FIRST SCHEDULE—*continued.*

(2.) (a) During the period of the Guthega agreement, the provisions of sub-clauses (1.) to (7.) both inclusive of clause 14, clause 15, clause 16 and paragraph (a) of sub-clause (2.) of clause 19 of this agreement shall not apply to and in respect of the Guthega Project except as hereinafter provided.

(b) The Guthega agreement may incorporate or apply all or any of the provisions referred to in paragraph (a) of this sub-clause either with or without modification provided that those provisions shall not be so incorporated or applied as to impose in respect of the period of the Guthega agreement any financial obligations on the State of Victoria or on the Electricity Commission of Victoria in respect of the Guthega Project.

(c) Any determination made pursuant to paragraph (v) of sub-clause (2.) of clause 15 of this agreement as incorporated or applied in the Guthega agreement shall be accepted by the parties to this agreement as having been properly made for all purposes of this agreement.

(d) On the date upon which the generating stations included in those parts of the works of the Authority known as the T.1. and T.2. Projects come into full operation, or on such other date (whether before or after the first-mentioned date) as the parties to this agreement may decide, the Guthega agreement shall cease to operate and the provisions referred to in paragraph (a) of this sub-clause shall thereupon apply to and in respect of the Guthega Project.

(3.) (a) Any debt which is owing by or to the Electricity Commission of New South Wales to or by the Authority at the end of the period of the Guthega agreement and which was incurred under that agreement shall be discharged by action of the parties to that agreement and shall not after the said period affect the cost of production of the Authority.

(b) In each financial year after the end of the period of the Guthega agreement, the cost of production of the Authority determined in accordance with this agreement shall be so determined on the basis that the Guthega Project forms part of the permanent works of the Authority. Without prejudice to the generality of the foregoing provisions of this paragraph—

(i) the net amount invested as at the end of the period of the Guthega agreement in the stage which comprises the Guthega Project shall be calculated as provided in paragraphs (d), (e), (f) and (h) of sub-clause (2.) of clause 15 of this agreement; and for the purposes of such calculation the amounts which in accordance with paragraph (c) of this sub-clause are deemed to be received by the Authority in respect of charges for depreciation shall be deemed to have been so received from the Commonwealth and both Electricity Commissions;

(ii) appropriate allocations made during the period of the Guthega agreement shall be accepted by the parties to this agreement as having been properly made for all purposes of this agreement.

(c) Amounts paid or payable under the Guthega agreement by the Electricity Commission of New South Wales in respect of the period of the Guthega agreement shall be deemed to exactly recoup the net cost of production of the Authority attributable to the Guthega Project for every financial year or odd fraction of a financial year during the period of the Guthega agreement and so far as required for the purpose of an odd fraction of a year those costs shall be deemed to accrue from day to day. Without prejudice to the foregoing provisions of this paragraph, the amounts paid by the Electricity Commission of New South Wales to the Authority under the Guthega agreement shall be deemed to include—

(i) instalments of accumulated interest and charges for depreciation on behalf of the Commonwealth and both Electricity Commissions attributable to the Guthega Project for the period of the Guthega agreement; and

(ii) all expenditure for maintenance of the Guthega Project during the period of the Guthega agreement.

(d) The amount of the expenditure for maintenance referred to in the last preceding paragraph shall be deemed to have been paid into and expended from the maintenance equalization account.

(4.) At the time when the Authority notifies the Electricity Commissions pursuant to clause 14 of this agreement of its estimates of electricity produced from the stage of the works known as the T.2. Project, or at the expiration of the

FIRST SCHEDULE—*continued.*

period of the Guthega agreement, whichever is the earlier, the Authority shall notify the Commissions of its estimates of production of electricity from the Guthega Project, and that notification shall be deemed to have been given pursuant to sub-clause (1.) of clause 14 of this agreement.

PART VIII—MISCELLANEOUS.

Legislation as to acquisition of lands and easements etc. for transmission of electricity.

23. The State of New South Wales agrees with the State of Victoria that it will include in the legislation submitted to its Parliament for the approval of this agreement a provision that the Government of New South Wales shall appropriate resume acquire or otherwise make available to and vest in the Electricity Commission of Victoria at the expense of that Commission such lands and easements over lands in the State of New South Wales as are required for the purpose of or incidental to erecting using and maintaining the facilities necessary for the transmission from the Area to Victoria of the electricity to which the Electricity Commission of Victoria is entitled under this agreement.

SCHEDULE.

1. The water storage works on the Eucumbene River known as Adaminaby Dam, and works ancillary thereto.
2. The tunnel for the diversion of the Eucumbene River to the Tumut River known as the Eucumbene Tumut Tunnel, and works ancillary thereto.
3. The Tumut Pond Dam, the tunnel, pressure shafts, power station, tailrace tunnel and works ancillary thereto known as T.1. Project.
4. The pondage, tunnel, pressure shafts, power station, tailrace tunnel and works ancillary thereto known as T.2. Project.
5. The works known as the Tooma Diversion.
6. The works known as the Murrumbidgee-Eucumbene diversion.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first hereinbefore written.

SIGNED BY THE RIGHT HONOURABLE ROBERT GORDON MENZIES, Prime Minister of the Commonwealth of Australia, for and on behalf of the Commonwealth, in the presence of—

W. H. SPOONER
Minister for National Development
Canberra
A.C.T.

ROBERT G. MENZIES

SIGNED BY THE HONOURABLE JOHN JOSEPH CAHILL, Premier of the State of New South Wales, for and on behalf of that State, in the presence of—

K. N. COMMENS

J. J. CAHILL

SIGNED BY THE HONOURABLE HENRY EDWARD BOLTE, Premier of the State of Victoria, for and on behalf of that State, in the presence of—

J. C. MACGIBBON

HENRY E. BOLTE

SECOND SCHEDULE.

Section 4.

A SUPPLEMENTAL AGREEMENT made this fourteenth day of December One thousand nine hundred and fifty-seven BETWEEN THE COMMONWEALTH OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of the second part and THE STATE OF VICTORIA of the third part, and intended to be supplemental to the agreement (in this agreement called "the Principal Agreement") entered into on the eighteenth day of September One thousand nine hundred and fifty-seven between the parties to this agreement to provide for the construction, operation and maintenance of the undertaking known as the Snowy Mountains Hydro-electric Scheme:

WHEREAS it is necessary, in order to give effect to certain arrangements between the parties to this agreement with respect to the possibility of flooding of lands along the Upper Murray and along the Lower Tumut, that certain provisions affecting the Principal Agreement should be made:

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows:—

1.—(1.) In this agreement—

Interpretation.

"loss by flooding" means loss directly resulting from the raising of the level of the Upper Murray by water diverted into the River Murray catchment by the permanent works of the Authority or of the Lower Tumut by the discharge of waters from the permanent works of the Authority into the Tumut River, as the case may be;

"the Upper Murray" means that portion of the River Murray, including any tributary through which water discharged from the permanent works of the Authority enters that river, which is between the lowest point of discharge of water by the Authority or the Council and the highest point on that river reached by the waters of the Hume Reservoir when that reservoir is at maximum flood level;

"the Lower Tumut" means that portion of the Tumut River which is between the point where the boundary of the Snowy Mountains area crosses that river and a point downstream from the town of Tumut and distant seven miles in a direct line from the point where the Tumut-Wee Jasper road crosses the Tumut River.

(2.) Expressions used in this agreement which are defined in the Principal Agreement have the same meanings as in the Principal Agreement.

2.—(1.) This agreement, other than sub-clause (2.) of this clause, shall have no force or effect and shall not be binding on any of the parties hereto unless and until it is approved by the respective Parliaments of the Commonwealth and the State of New South Wales and the State of Victoria, but, upon being so approved by those Parliaments, it shall be of full force and effect and binding on the parties.

Approval of Agreement.

(2.) The Governments of the Commonwealth and the States hereby agree to submit this agreement for approval to their respective Parliaments as soon as practicable after the date of this agreement.

3. The Authority shall—

(a) in investigating, planning, locating and constructing its works, take reasonable precautions for the prevention of loss by flooding in relation to land along the Upper Murray and along the Lower Tumut; and

Authority to avoid flooding on Upper Murray.

(b) take all reasonable measures to prevent loss by flooding in relation to land along the Upper Murray and along the Lower Tumut as a result of the operation of the permanent works of the Authority.

4.—(1.) In directing and controlling the operation and maintenance of the permanent works of the Authority, the Council shall cause to be taken all reasonable precautions to prevent loss by flooding in relation to land along the Upper Murray and along the Lower Tumut.

Liability of Council for flooding on Upper Murray.

(2.) If the owner of land along the Upper Murray or along the Lower Tumut suffers loss by flooding in relation to that land, the Council shall be liable to pay to that person such compensation as is determined by agreement between that person and the Council or, in the absence of agreement, by action against the Council in a court of competent jurisdiction.

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SECOND SCHEDULE—*continued.*

(3.) The Authority shall, on being requested by the Council to do so, provide the Council with the funds necessary to meet the expenses incurred by the Council in pursuance of this clause.

(4.) The provisions of sub-clause (8.) of clause 16 of the Principal Agreement shall apply in relation to claims and proceedings against the Council arising out of this clause.

**Commonwealth
legislation.**

5. The Government of the Commonwealth of Australia agrees to include in the legislation submitted to its Parliament for the approval of this agreement a provision requiring the Authority to carry out its obligations under this agreement.

**State
legislation.**

6. The Government of each of the States agrees to include in the legislation submitted to its Parliament for the approval of this agreement—

- (a) a provision requiring the Council to carry out its obligations under this agreement;
- (b) a provision imposing liability on the Council in accordance with sub-clause (2.) of clause 4 of this agreement; and
- (c) a provision in such form as will enable the Authority for the purpose of giving effect to this agreement to do in that State all such matters and things as the Act permits, or purports to permit, the Authority to do, and to exercise all such powers and authorities in that State as may be necessary to enable the provisions of this agreement to be carried out.

**Treatment of
expenditure.**

7. Expenditure incurred by the Authority in pursuance of this agreement shall, for the purposes of the Principal Agreement—

- (a) if it is of a capital nature—be deemed to be part of the net capital expenditure of the Authority in respect of the relevant stage or stages of the permanent works of the Authority; and
- (b) in any other case—be deemed to be part of the net cost of production of the Authority in the year in which it is incurred.

8. The provisions of this Agreement will cease to apply in relation to land along the Lower Tumut when the storage works referred to in clause 6 of the Principal Agreement are so far constructed and brought into operation as to commence to control the waters of the Tumut River.

9. In all other respects, the Principal Agreement is confirmed.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first hereinbefore written.

SIGNED BY THE RIGHT HONOURABLE ROBERT
GORDON MENZIES, Prime Minister of the Common-
wealth of Australia, for and on behalf of the Com-
monwealth, in the presence of—

W. HESELTINE

ROBERT G. MENZIES

SIGNED BY THE HONOURABLE JOHN JOSEPH
CAHILL, Premier of the State of New South Wales,
for and on behalf of that State, in the presence of—

G. M. GRAY

J. J. CAHILL

SIGNED BY THE HONOURABLE HENRY
EDWARD BOLTE, Premier of the State of Victoria,
for and on behalf of that State, in the presence of—

W. HESELTINE

HENRY E. BOLTE