

CHAPTER 762

AN ACT to amend the transportation corporations law, generally.
Became a law May 4, 1926, with the approval of the Governor. Passed,
three-fifths being present.

The People of the State of New York, represented in Senate and
Assembly, do enact as follows:

Section 1. All, after the title, of chapter two hundred and
nineteen of the laws of nineteen hundred and nine, entitled "An act in
relation to transportation corporations, excepting railroads,
constituting chapter sixty-three of the consolidated laws," as amended,
is hereby amended to read as follows:

Article 1. Short title; classification; incorporation; application
(§§ 1-6).

2. Gas and electric corporations (§§ 10-17).
3. Telegraph and telephone corporations (§§ 25-31).
4. Water-works corporations (§§ 40-47).
6. Ferry corporations (§§ 70-72).
7. Pipe line corporations (§§ 80-93).
8. Freight terminal corporations (§§ 100-109).
9. District steam corporations (§§ 110-114).
10. Sewage-works corporations (§§ 115-124).

ARTICLE 1.

SHORT TITLE; CLASSIFICATION; INCORPORATION; APPLICATION.

Section 1. Short title.

2. Classification of transportation corporations.
3. Incorporation.
4. Applicability of business corporation law to transportation corporations.
5. Application.
6. Merger of subsidiary corporations.

§ 1. Short title. This chapter shall be known as the "Transportation Corporations Law."

§ 2. Classification of transportation corporations. A transportation corporation shall be either,

1. A gas corporation, an electric corporation or a gas and electric corporation.

2. A telegraph corporation, a telephone corporation or a telegraph and telephone corporation.

3. A water-works corporation.

5. A ferry corporation.

6. A pipe line corporation.

7. A freight terminal corporation.

8. A district steam corporation.

9. Sewage-works corporation.

§ 3. Incorporation. (a) A transportation corporation may be formed under this chapter, in accordance with the procedure for the formation of corporations set forth in article four of the business corporation law, by delivering to the department of state for filing a certificate of incorporation entitled "Certificate of incorporation of . . . (name of corporation) pursuant to section three of the transportation corporations law".

(b) In addition to the statements prescribed by section four hundred two of the business corporation law, a certificate of incorporation of a transportation corporation shall designate the particular kind of transportation corporation to be formed, and shall state:

1. If a gas corporation, an electric corporation, or a gas and electric corporation, the county or counties in which its operations are

to be carried on;

2. If a telegraph corporation, a telephone corporation, or a telegraph and telephone corporation, the territory in which its operations are to be carried on;

3. If a water-works corporation, the cities, towns and villages to be supplied with water, and that the consent of the authorities of such cities, towns and villages required by this chapter has been obtained, and that such consent has been annexed thereto;

5. If a ferry corporation, the places from and to which the ferry is to run;

6. If a pipe line corporation, the places from and to which the pipe line is to be maintained, as nearly as practicable, and the county or counties through which or in which it is to be maintained and operated;

7. If a freight terminal corporation, the limits of the locality in which its operations are to be carried on;

8. If a district steam corporation, the cities, towns and villages to be supplied with steam and that the consent of the authorities of such cities, towns and villages required by this chapter has been obtained, and that such consent has been annexed thereto.

§ 4. Applicability of business corporation law to transportation corporations. (a) The business corporation law applies to a corporation heretofore or hereafter formed under this chapter, or under any other statute or special act of this state, or under laws other than the statutes of this state, which has as its purpose or among its purposes a purpose for which a corporation may be formed under this chapter, except that in case of a conflict between the business corporation law and this chapter the provisions of this chapter shall govern. If there is in this chapter a provision relating to a matter embraced in the business corporation law and not in conflict therewith, both provisions shall

apply. Any corporation to which the business corporation law is made applicable by this section shall be treated as a "corporation", "domestic corporation", or "foreign corporation", as such terms are used in the business corporation law, except that the purposes for which any such corporation may be formed under section three of this chapter shall not thereby be extended.

(b) For the purpose of this section and elsewhere in this chapter, the effective date of the business corporation law as to corporations to which the business corporation law is made applicable by this section shall be June first, nineteen hundred sixty-four.

§ 5. Application. A corporation heretofore or hereafter incorporated under a general law for a purpose or purposes for which a corporation may be formed under this chapter shall in respect to such purpose or purposes have all the powers and privileges conferred, and be subject to all the duties, liabilities and limitations imposed, on a corporation organized for such purpose or purposes under this chapter. Any corporation heretofore incorporated under a general law for any one or more of the purposes specified in this chapter, may exercise the powers now possessed by it to carry on any business in which it now may lawfully engage. A corporation heretofore incorporated under or by special law for such purpose or purposes shall in respect to such purpose or purposes have all the powers and privileges conferred, and be subject to the duties, liabilities and limitations imposed by this chapter, in so far as such duties, liabilities and limitations are not inconsistent with such special law.

§ 6. Merger of subsidiary corporations. (a) Any domestic transportation corporation or any foreign corporation authorized to do in this state any business which may be done in this state by a domestic transportation corporation, owning at least ninety-five percent of the outstanding shares of each class of any domestic corporation or corporations authorized to engage in business similar or incidental to the business which the possessor corporation is authorized to engage in, and any domestic transportation corporation owning at least ninety-five

percent of the outstanding shares of each class of any foreign corporation authorized to do in this state any business which may be done in this state by a domestic transportation corporation and also authorized to engage in business similar or incidental to the business which the possessor corporation is authorized to engage in, may merge such corporation or corporations into itself without the authorization of the shareholders of any such corporation, in accordance with the procedure and with the effect set forth in article nine of the business corporation law for the merger of subsidiary corporations.

(b) Any omnibus corporation may be merged under this section with any railroad corporation, provided such railroad corporation shall have substituted stages, buses or motor vehicles for cars or trains upon tracks on any portion of its route in accordance with section one hundred twenty-one of the transportation law.

*** § 7. Agreement for fiber optic utility use and occupancy of state right of way.** The commissioner of transportation is hereby authorized to enter into an agreement with any fiber optic utility for use and occupancy of the state right of way for the purposes of installing, modifying, relocating, repairing, operating, or maintaining fiber optic facilities. Such agreement may include a fee for use and occupancy of the right of way, provided, however, such fee shall not be greater than fair market value. Any provider using or occupying a right of way in fulfillment of a state grant award through the New NY Broadband Program shall not be subject to a fee for such use or occupancy. Any fee for use or occupancy charged to a fiber optic utility shall not be passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service. Any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. Nothing herein shall impair, inhibit, or otherwise affect the ability of any municipality to regulate zoning, land use, or any other power or authority granted under the law. For purposes of this section, "municipality" shall include a

county, city, village, or town.

* NB Repealed May 9, 2022

* NB Repealed April 12, 2024

ARTICLE 2.

GAS AND ELECTRIC CORPORATIONS.

Section 10. Definitions.

11. Powers.

12. Gas and electricity must be supplied on application.

15. Refusal or neglect to pay rent.

16. No rent for meters to be charged.

17. Construction over Indian reservation.

§ 10. Definitions. A gas corporation is a corporation organized to manufacture, to produce or otherwise acquire and to supply for public use artificial or natural gas, a mixture of both artificial and natural gases or thermal energy for light, heat or power and for lighting the streets and public and private buildings of cities, villages and towns in this state. An electric corporation is a corporation organized to manufacture, to produce or otherwise acquire, and to supply for public use electricity or thermal energy for light, heat or power, and for lighting streets, avenues, public parks and places and public and private buildings of cities, villages and towns within this state. A gas and electric corporation is a corporation organized for purposes of both a gas corporation and an electric corporation. For purposes of this article, "thermal energy" shall have the same meaning as defined by subdivision twenty-eight of section two of the public service law.

§ 11. Powers. Every such corporation shall have the following powers:

1. A gas corporation and a gas and electric corporation shall have power to manufacture gas, and to acquire thermal energy or natural or artificial gas and to mix the gases and to sell and furnish thermal energy for heating or cooling or gas for light, heat or power; and to lay conductors, pipes, conduits, ducts and other fixtures for gas or

thermal energy networks in the streets, highways and public places, in each city, village and town in the county or counties named in its certificate of incorporation, with the consent of the municipal authorities of such city, village or town, and under such reasonable regulations as they may prescribe.

2. Every corporation having authority under any general or special law or under any charter or franchise, to lay down, erect or maintain pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality for the purpose of furnishing or distributing natural gas or thermal energy, may acquire and supply for public use artificial gas or thermal energy.

Where any gas corporation is serving natural gas under permits or franchises permitting the laying or maintaining of mains or pipes and conveying natural gas, and the supply of natural gas has become inadequate or insufficient to give reasonable service to consumers in the municipalities served by it, such gas corporation may supply artificial gas or a mixture of natural and artificial gases or thermal energy under such permits or franchises.

3. An electric corporation and a gas and electric corporation shall have power to generate, acquire and supply electricity or thermal energy for heat, cooling or power in cities, towns and villages within this state, and to light the streets, highways and public places thereof, and the public and private buildings therein; and to make, sell or lease all machines, instruments, apparatus and other equipments therefor, and for transmitting and distributing electricity or thermal energy, to lay, erect and construct suitable wires or other conductors, with the necessary poles, pipes, thermal energy networks or other fixtures in, on, over and under the streets, avenues, public parks and places in such cities, towns or villages, with the consent of the municipal authorities thereof, and in such manner and under such reasonable regulations, as they may prescribe.

3-a. An electric corporation and a gas corporation shall have power and authority to acquire such real estate as may be necessary for its

corporate purposes and the right of way through any property in the manner prescribed by the eminent domain procedure law.

3-b. The construction, use and maintenance by an electric corporation of transmission, distribution and service lines and wires or thermal energy networks in, over or under any street, highway or public place and the construction, use and maintenance by a gas corporation of transmission, distribution and service pipes, conduits, ducts or other fixtures in, over or under any trees, highway or public place, as may be necessary for its corporate purposes, are hereby declared to be public uses and purposes.

Where any person or corporation other than the state, a political subdivision thereof, or a municipality is the owner of any right, title or interest in or to any street, highway or public place, or in or to the land on which the street, highway or public place is located, an electric corporation or a gas corporation is hereby authorized and empowered to acquire the right to construct, use and maintain such lines or wires and such pipes, conduits, ducts or other fixtures, in, over or under such street, highway or public place, from such owner or owners, by petition in the manner prescribed by section four hundred two of the eminent domain procedure law to the supreme court in the county in which such street, highway or public place is situated. The corporation shall file with the court a certificate of the public service commission certifying that the right sought to be acquired is necessary and in the public interest and such certificate shall be conclusive evidence as to the matters lawfully certified therein.

After a hearing on such petition and any answer thereto, if the court shall find that such right to construct, use and maintain is necessary for the corporate purposes of the corporation, it shall enter its judgment adjudging that such right is necessary for the public use and that the corporation is entitled to construct, use and maintain its lines or wires or pipes, conduits, ducts or other fixtures in, over or under such street, highway or public place and adjudging pursuant to the eminent domain procedure law the compensation to be made by the corporation to the owner or owners.

4. Any two or more domestic gas corporations, electric corporations, gas and electric corporations, and any other domestic corporation formed for the purpose of engaging in any business in which domestic gas corporations, electric corporations or gas and electric corporations may engage, may merge or consolidate in accordance with the procedure and with the effect set forth in article nine of the business corporation law.

5. A corporation mentioned in this article or incorporated under or by any general or special law of this state for the purpose of supplying for public use electricity for light, heat or power in cities, towns or villages in this state, upon filing a certificate of amendment therefor, to which is annexed the consent required by section one hundred and eleven of this chapter, shall have all the rights, privileges and powers and be subject to all the restrictions of district steam corporations.

6. The term "municipal authorities" as used in subdivisions one and three of this section, shall be deemed to be the local legislative body of a city, the board of trustees of a village and the town board of a town. All consents in writing for the doing of acts mentioned in such subdivisions given before April fourteenth, nineteen hundred and twenty-two, in writing by the highway commissioners or town superintendent of highways or the town board of any town to any corporation organized under the provisions of this article shall be deemed to be the consents of the municipal authorities required by this section.

7. Subdivisions three and three-a of this section shall not apply to any merchant transmission company which:

(a) commences and ends in the state of New York;

(b) through its employees, agents, representatives, or assigns, has represented in testimony that the construction of such power transmission lines will increase electric rates in any part of the state; and

(c) which applied for and did not receive an early designation as a national interest electric transmission corridor under an act of

Congress commonly known as the Energy Policy Act of 2005.

§ 12. Gas and electricity must be supplied on application. Except in the case of an application for residential utility service pursuant to article two of the public service law, upon written application of the owner or occupant of any building within one hundred feet of any main of a gas corporation or gas and electric corporation, or a line of an electric corporation or gas and electric corporation, appropriate to the service requested, and payment by him of all money due from him to the corporation, it shall supply gas or electricity as may be required for lighting such building, notwithstanding there be rent or compensation in arrears for gas or electricity supplied, or for meter, wire, pipe or fittings furnished, to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or to exonerate him from the payment of such arrears, and shall refuse or neglect to pay the same; and if for the space of ten days after such application, and the deposit of a reasonable sum as provided in the next section, if required, the corporation shall refuse or neglect to supply gas or electric light as required, such corporation shall forfeit and pay to the applicant the sum of ten dollars, and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue; provided that no such corporation shall be required to lay service pipes or wires for the purpose of supplying gas or electric light to any applicant where the ground in which such pipe or wire is required to be laid shall be frozen, or shall otherwise present serious obstacles to laying the same; nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay the cost of his proportion of the pipe, conduit, duct or wire required to be installed, and the expense of the installation of such portion.

§ 15. Refusal or neglect to pay rent. If any person supplied with gas or electric light by any such corporation, except residential customers supplied pursuant to article two of the public service law shall neglect or refuse to pay the rent or remuneration due for the same or for the

wires, pipes or fittings let by the corporation, for supplying or using such gas or electric light or for ascertaining the quantity consumed or used as required by his contract with the corporation, or shall refuse or neglect, after being required so to do, to make the deposit required, such corporation may discontinue the supply of gas or electric light to the premises of such person; and the officers, agents or workmen of such corporation may enter into or upon such premises between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, and separate and carry away any meter, pipe, fittings, wires or other property of such corporation, and may disconnect any meter, pipe, fittings, wires or other works whether the property of the corporation or not, from the mains, pipes or wires of the corporation. But the supply of gas or electric light shall not be discontinued for non-payment of bills rendered for service until and after a five-day written notice has been served upon such person either by delivering the same to such person personally or by mailing the same in post-paid wrapper addressed to such person at premises where service is rendered.

§ 16. No rent for meters to be charged. No gas corporation, electric corporation or gas and electric corporation directly or indirectly shall charge or collect rent on its gas meters, and any person, or corporation violating this provision shall be liable to a penalty of fifty dollars for each offense, to be sued for and recovered in the corporate name of the city, town or village where the violation occurs, in any court having jurisdiction, and when collected to be paid into the treasury of such city, town or village and to constitute a part of the contingent or general fund thereof.

§ 17. Construction over Indian reservation. A gas corporation, an electric corporation or a gas and electric corporation may contract with the chiefs of any nation of Indians over whose lands it may be necessary to construct its gas or electric lines for the right to construct such lines upon such lands, but no such contract shall vest in the corporation the fee of such lands nor the right to occupy the same for any purpose other than for the construction, operation and maintenance

of such lines, nor shall such contract be valid or effectual until the same has been ratified by the county court of the county in which the lands are situated and approved by the public service commission pursuant to section sixty-eight of the public service commission law.

ARTICLE 3.

TELEGRAPH AND TELEPHONE CORPORATIONS.

- Section 25. Definitions.
- 26. Extension of lines.
 - 27. Construction of lines.
 - 28. Transmission of dispatches.
 - 29. Transfer of property to other corporations.
 - 30. Special police officers of corporation operating signal systems.
 - 30-a. Merger or consolidation of telephone corporations.
 - 30-b. Merger or consolidation of telegraph corporations.
 - 31. Application of article.

§ 25. Definitions. A telegraph corporation is a corporation organized to construct, own, use and maintain a line or lines of electric telegraph wholly within or partly without this state, or to acquire and own any interest in any such line or lines, or any grants therefor or for any or all of such purposes. A telephone corporation is a corporation organized to construct, own, use and maintain a line or lines of electric telephone wholly within or partly without the state, or to acquire and own any interest in any such line or lines, or any grants therefor or for any or all of such purposes. A telegraph and telephone corporation is a corporation organized for both such telegraph and telephone purposes.

§ 26. Extension of lines. A telegraph corporation, a telephone corporation or a telegraph and telephone corporation heretofore or hereafter incorporated under or by any general or special law may construct, own, use and maintain any line of electric telegraph or

telephone, whether or not the line and the territory in which it be located was described in its original certificate of incorporation, and whether wholly within or wholly or partly without the state, and may join with any other corporation in constructing, leasing, owning, using and maintaining such line, or hold or own any interest therein, or become lessees thereof, upon delivering to the department of state for filing a certificate of amendment. If the lines or territory are to be extended the certificate shall describe the territory in which the operations of the corporation are to be carried on.

§ 27. Construction of lines. Any such corporation may erect, construct and maintain the necessary fixtures for its lines upon, over or under any of the public roads, streets and highways; and through, across or under any of the waters within the limits of this state, and may erect, construct and maintain its necessary stations, plants, equipment or lines upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same. If any such corporation can not agree with such owner or owners upon the compensation to be paid therefor, such compensation shall be ascertained in the manner provided in the eminent domain procedure law. Any such corporation is authorized, from time to time, to construct and lay lines of electrical conductors under ground in any city, village or town within the limits of this state, subject to all the provisions of law in reference to such companies not inconsistent with this section; provided that such corporation shall, before laying any such line in any city, village or town of this state, first obtain from the common council of cities, or other body having like jurisdiction therein, the trustees of villages, or the town superintendents of towns, permission to use the streets within such city, village or town for the purposes herein set forth. Nothing in this section shall limit, alter, or affect the provisions or powers relating or granted to telegraph corporations heretofore created by special act of the legislature of this state, except in so far as to confer on any such corporation the right to lay electrical conductors under ground.

§ 28. Transmission of dispatches. Every such corporation shall receive dispatches from and for other telegraph or telephone lines or corporations, and from and for any person, and on payment of the usual charges for transmitting dispatches as established by the rules and regulations of such corporation, transmit the same with impartiality and good faith and in the order in which they are received, and if it neglects or refuses so to do, it shall pay one hundred dollars for every such refusal or neglect to the person sending or desiring to send any such dispatch and entitled to have it so transmitted, but arrangements may be made with the proprietors or publishers or newspapers for the transmission for publication of intelligence of general and public interest out of its regular order.

§ 29. Transfer of property to other corporations. Any such corporation may lease, sell or convey its property, rights, privileges and franchises, or any interest therein, or any part thereof to any telegraph, telephone or telegraph and telephone corporation organized under or created by the laws of this or any other state, and may acquire by purchase, lease or conveyance the property rights, privileges and franchises, or any interest therein or part thereof of any such corporation, and may make payments therefor in its own stock, money or property, or receive payment therefor in the stock, money or property of the corporation to which the same may be so sold, leased or conveyed.

§ 30. Special police officers of corporation operating signal systems. The police department or board of police of any city may, in addition to the police force now authorized by law, appoint a number of persons, not exceeding two hundred, who may be designated by any corporation operating a system of signaling by telegraph to a central office for police assistance, to act as special patrol officer in connection with such telegraph system. And the persons so appointed shall, in and about such service, have all the powers possessed by the members of the regular force, except as they may be limited by and subject to the supervision and control of the police department or board of police of such city. No person shall be appointed such special police officer who

does not possess the qualifications required by such police department or board of police for such special service; and persons so appointed shall be subject, in case of emergency, to do duty as part of the regular police force of the city. The police department or board of police shall have power to revoke any such appointment at any time, and every person appointed shall wear a badge and uniform, to be furnished by such corporation and approved by the police department or board of police; such uniform shall be designated at the time of the first appointment and shall be the permanent uniform to be worn by such special police, and the pay of such special patrol officer and all expenses connected with their service shall be wholly paid by such corporation, and no expense or liability shall at any time be incurred or paid by the police department or board of police of any city, for or by reason of the services of such persons so appointed.

§ 30-a. Merger or consolidation of telephone corporations. Any two or more domestic telephone corporations may merge or consolidate with each other, in accordance with the procedure and with the effect set forth in article nine of the business corporation law.

§ 30-b. Merger or consolidation of telegraph corporations. Any two or more domestic telegraph corporations may merge or consolidate with each other, in accordance with the procedure and with the effect set forth in article nine of the business corporation law.

§ 31. Application of article. The provisions of this article shall apply to corporations owning, leasing, maintaining or operating or organized for the purpose of owning, leasing, maintaining or operating, a radio or wireless plant, equipment or system as a part of, or in conjunction with, a station or stations engaged in or designed to engage in public commercial intercourse by wireless telegraphy or telephony, and also corporations for the generation and distribution of music electrically; and such corporations shall possess the powers and be subject to all the duties granted to or imposed upon telegraph or

telephone corporations thereby except that such corporations organized solely for the generation and distribution of music electrically shall not have or exercise the right of condemnation.

ARTICLE 4.

WATER-WORKS CORPORATIONS.

Section 40. Definition.

- 41. Municipal consent to incorporation.
- 42. Duty to supply water; contracts with municipalities.
- 43. Powers.
- 44. Survey and map.
- 45. Condemnation of real property.
- 46. Corporations may contract with other cities, towns or villages; certificate of extension; effect of merger.
- 47. Merger or consolidation of waterworks corporations.

§ 40. Definition. A water-works corporation is a corporation organized to supply water by mains or pipes to any of the cities, towns or villages in this state, and the inhabitants thereof.

§ 41. Municipal consent to incorporation. No certificate of incorporation of a water-works corporation shall be filed unless there be annexed thereto a consent to the formation of the corporation, signed and acknowledged by the local authorities of each municipality named in such certificate. Such authorities shall be: in a city, a majority of the members of the board or body having charge of the water supply, or if there be no such board or body, a majority of the members of the local legislative body; in a village, a majority of the members of the board of trustees; in a town outside of a village, the town superintendent of highways and a majority of the members of the town board. Such consent to the formation of the corporation shall not be granted by said local authorities until ten days prior notice in writing of the application for such consent and until an engineering plan for proposed water system specifying location and size and type of wells,

pumps, distribution mains and other facilities of the water supply and/or distribution system is furnished by the water works corporation to the local authorities and to the county water authority, and to the county water district if there be such authority or district where the proposed corporation seeks to operate; and until said authority or district has reported in writing to the municipality named in the certificate of incorporation its recommendations as to whether or not such consent should be granted, setting forth the reasons for such recommendation and a finding as to whether the proposed water supply and/or distribution system is reasonably comparable to standards of a county-wide water system and suitable for eventual integration with such county-wide water system. Said report shall be filed with such municipality on or before the tenth day after the giving of the notice aforesaid.

§ 42. Duty to supply water; contracts with municipalities. Such corporation shall supply each city, town or village through which the conduits or mains of such corporation may pass, or wherein such corporation may have organized, and the inhabitants thereof, with pure and wholesome water, at reasonable rates. The board of trustees of any incorporated village and the water commissioners or other board or officials performing the duties of water commissioners and having charge of the water supply of any city, shall have the power to contract in the name and behalf of the municipal corporation for the term of one year or more for the delivery by such corporation to the village or city of water, through hydrants or otherwise, for the extinguishment of fires and for sanitary and other public purposes. The amount agreed to be paid shall be annually raised as a part of the expenses of such village or city, and shall be assessed, levied and collected in the same manner as other expenses, and when collected shall be kept as a separate fund, and paid according to the terms and conditions of such contract. No such contract shall be made for a longer period than ten years nor for an annual amount exceeding in the aggregate two and one-half mills for every dollar of the taxable property of such village or city, except (a) upon the petition of a majority of the taxable inhabitants of any such village or city, or of the portion thereof to be supplied, or (b) upon a

proposition to authorize the same submitted to a vote of the electors of the village or city, in the manner provided by the village law or city charter, and approved by a majority of the voters entitled to vote and voting thereon at an annual election or a special election duly called. Such contract shall be for a term not exceeding twenty years.

§ 43. Powers. Every such corporation shall have the following additional powers:

1. To lay and maintain its pipes and hydrants for delivering and distributing water in any street, highway or public place of any city, town or village in which it has obtained the consent required by section forty-one of this article.

2. To lay its water pipes in any streets or avenues or public places of an adjoining city, town or village; provided that such right in an adjoining city or village having a population of more than twelve thousand inhabitants shall be subject to the permission of the local authorities thereof and upon such conditions as they may prescribe.

3. To cause examinations and surveys to be made to determine the proper location of its waterworks, and for such purpose by its officers, agents or servants to enter upon any lands or waters, subject to liability for all damages done.

4. To enter into appropriate agreements with the secretary of agriculture of the United States department of agriculture to operate without profit for the term specified therein for the purpose of qualifying to receive federal assistance pursuant to the consolidated farmers home administration act of nineteen hundred sixty-one and any federal laws amendatory and supplementary thereto. Any such agreement to operate without profit shall be subject to the approval of a majority of the stockholders entitled to vote thereat at any regular or special stockholders' meeting. Any stockholder so entitled to vote who does not vote for or consent in writing to the taking of this action, shall, subject to and by complying with the provisions of section six hundred

twenty-three of the business corporation law, have the right to receive payment of the fair value of his stock and the other rights and benefits provided by such section.

§ 44. Survey and map. Before taking or using any land, for its corporate purposes such corporation shall cause a survey and map to be made of the lands intended to be taken designating the land of the several owners or occupants thereof, which map shall be signed by the president and its secretary, and filed in the office of the county clerk of the county in which such lands are situated.

§ 45. Condemnation of real property. Any such corporation shall have the right to acquire real estate, or any interest therein, necessary for the purposes of its incorporation, and the right to lay, relay, repair and maintain conduits and water pipes with connections and fixtures, in, through or over the lands of others, the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning or interested in any waters, and the right to prevent the flow of drainage of noxious or impure matters from the lands of others into its reservoirs or sources of supply. If any such corporation, which has made a contract with any city, town or village or with any of the inhabitants thereof for the supply of pure and wholesome water as authorized by section forty-two, shall be unable to agree upon the terms of purchase of any such property or rights, it may acquire the same by condemnation. But no such corporation shall have power to take or use water from any of the canals of this state, or any canal reservoirs as feeders, or any streams which have been taken by the state for the purpose of supplying the canals with water.

§ 46. Corporations may contract with other cities, towns or villages; certificate of extension; effect of merger. When any such corporation has entered into a contract with the authorities of any city, town or village not mentioned in its certificate of incorporation, but situated in the same county as the city, towns or villages mentioned therein or

in an adjoining county, to supply it with pure and wholesome water, it may file a certificate which shall be entitled and endorsed "certificate of extension of territory of pursuant to section forty-six of the transportation corporations law" (the blank space being filled in with the name of the corporation) and which shall state:

1. The name of the corporation, and, if it has been changed, the name under which it was originally incorporated.

2. The name of such other city, town or village to be so supplied with water.

Such certificate shall be signed and acknowledged by the president or a vice-president and the secretary or an assistant secretary of the corporation, who shall make and annex an affidavit that they have been authorized to execute and file the same by the vote of a majority of the directors of the corporation.

Such certificate shall be filed in each public office in which the certificate of incorporation is filed. Any corporation which has heretofore filed or shall file such certificate as aforesaid may thereupon supply any such city, town or village with water in the same manner and with the same rights and subject to the same requirements as if it had been named in the original certificate of incorporation, and as if such certificate of incorporation had had annexed thereto a consent to the formation of the corporation, signed and acknowledged by the local authorities of such municipal corporation, as defined in section forty-one of this chapter.

The right of merger of waterworks corporations shall not be limited to corporations operating in the same or adjoining counties, and if a waterworks corporation be merged pursuant to law with another waterworks corporation operating in the state, any municipal corporation or political subdivision of the state, and any public officer, board or body, authorized by statute to contract with such a merged corporation, shall have power and authority to contract and deal with the possessor

corporation in the same manner and with the same effect as with such merged corporation.

§ 47. Merger or consolidation of waterworks corporations. Any two or more domestic waterworks corporations may merge or consolidate with each other, in accordance with the procedure and with the effect set forth in article nine of the business corporation law.

ARTICLE 6.

FERRY CORPORATIONS.

Section 70. Definition.

71. Powers.

72. Posting of schedules of rates.

§ 70. Definition. A ferry corporation is a corporation organized to operate a ferry, wholly within or partly without this state.

§ 71. Powers. Any such corporation shall have power to take by grant or by assignment a franchise or right to establish and operate a ferry or ferries, as specified in the certificate of incorporation, subject to the rights of any person, or municipal or other corporation.

In any case when an application is made to the local governing body of a county without the city of New York for a grant such local governing body is authorized to make such grant if a public necessity therefor is shown. Whenever it is shown to such local governing body upon an application for a grant that the tangible property of a ferry corporation, employed or to be employed in the exercise of a ferry franchise or right, is of the value of at least ten thousand dollars, such local governing body may grant such franchise or right for a period not exceeding fifteen years.

A ferry corporation, now enjoying a grant from a county court or such

local governing body for a shorter period, shall be entitled to an extension thereof for a period not exceeding fifteen years from the time of granting such extension, on application and due proof to the local governing body of a county that its tangible property, employed in the exercise of such ferry franchise or right, is of the value of at least ten thousand dollars.

§ 72. Posting schedule of rates. A corporation operating a ferry in this state, or between this state and any other state, shall post in a conspicuous and accessible place in each of its ferry houses, in plain view of the passengers, a schedule plainly printed in the English language, of its rates.

ARTICLE 7.

PIPE LINE CORPORATIONS.

- Section 80. Definitions.
81. Additional powers.
- 81-a. Misconduct of officers and agents of pipe-line corporations.
82. Location of route.
83. Condemnation of real property.
84. Railroad and highway crossings.
85. Construction across and along canals, rivers and creeks.
86. Consent of local authorities.
87. Construction through villages and cities.
88. Over Indian reservations.
89. Over state lands.
90. Use of lines to be public; storage; liable as common carriers; rates and charges.
91. Receipts for property; cancellation of vouchers; delivery of property.
92. Semi-annual statements.
93. Fences; farm crossings and use of line not enclosed.

§ 80. Definitions. 1. A pipe line corporation is a corporation organized to construct and operate for public use, wholly within or partly without this state, except in the city of New York, lines of pipe for conveying or transporting therein petroleum, gas, liquids or any products or property, or, except in such city, to maintain and operate for public use for which such purposes lines of pipe already constructed.

2. For the purposes of this article, the terms "exploration", "development", "production", and "federal waters" shall be defined as in section 23-1105 of the environmental conservation law.

3. "North Atlantic planning area" means an area of federal waters in the outer continental shelf totaling ninety-two million three hundred twenty thousand acres adjacent to the coastal waters of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey.

§ 81. Additional powers. Every such corporation shall have power:

1. To make such examinations and surveys as it may deem necessary for the selection of the most advantageous route, and for such purpose by its officers, agents or servants to enter upon the lands or waters of any person, subject to liability for all damage done thereto.

2. To lay out its route not exceeding fifty feet in width, but at the termini of such route and at all receiving and discharging points and at all places where machinery may properly be set up for the operation of such pipe line to take such additional land as may be necessary.

3. To convey through pipes any property, substance or product capable of transportation therein by means of any force, power or mechanical agency, and to erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the purposes of its incorporation.

4. To regulate the time and manner in which property shall be conveyed through its pipe lines, and the compensation to be paid, but such compensation shall not be at a rate in excess of twenty-five cents per one hundred miles for the transportation of forty-two gallons of any product conveyed through lines of one hundred miles in length or over, which shall be reckoned and adjusted upon the quantity or number of gallons delivered by such corporation.

§ 81-a. Misconduct of officers and agents of pipe-line corporations.

Any officer, agent or manager of a pipe-line corporation who:

1. Neglects or refuses to transport any product delivered for transportation, or to accept and allow a delivery thereof in the order of application, according to the general rules of the corporation, as provided by law; or,

2. Charges, accepts or agrees to accept for such receipt, transportation and delivery, a sum different from the amount fixed by such regulations; or,

3. Allows or pays, or agrees to allow or pay, or suffers to be allowed or paid or repaid, any draw-back, rebate or allowance, so that any person shall, by any advice, have or procure any transportation of products over such pipe-line at a less rate or charge than is fixed in such regulations,

Is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both.

§ 82. Location of route. Before commencing the construction of its pipe line in any county, and before commencing any proceeding for the condemnation of real property, such a corporation shall plainly mark the route adopted and located by it by stakes consecutively numbered and placed not more than twenty rods apart, and shall make a map and survey

of the route so located indicating thereon the points where such route crosses each parcel of land not theretofore acquired, and shall cause such map and survey to be certified by its president and engineer, and filed in the office of the clerk of each county into or through which such route passes. Such corporation shall give written notice of the filing of such map and survey to the owner or occupant of every such parcel of land, if he is known or can be ascertained, stating that such route passes over or across his lands, as indicated thereon by such line of stakes. Within fifteen days after the service of such notice, any such owner or occupant feeling aggrieved by such location may give ten days' written notice to the corporation, by service thereof upon its president, engineer, or any director, and like notice to the owner or occupant of any lands to be affected by the alteration of route to be proposed, of the time and place of an application to a special term of the supreme court in the judicial district in which the lands are situated for the appointment of commissioners to relocate such route. If the court shall determine that sufficient cause exists therefor, it shall appoint three disinterested persons as commissioners to examine the route located and the proposed alteration thereof, and direct the mode of proceeding. The commissioners shall report to the court the facts and their opinion as to the proposed alteration, and what, if any, alteration should be made in such route, and the court shall thereupon make an order finally determining the location of such route upon the lands embraced therein, and fixing and adjusting the costs, fees, and charges of the commissioners, and the costs and expenses of the proceedings, and directing by which party the same shall be paid. Payment thereof may be enforced by proceedings as for a contempt. Such corporation shall not begin to construct or lay its line of pipe, or commence proceedings for the condemnation of real property, in any county, until after the expiration of fifteen days from the service of the notice herein required, nor until all applications for a relocation of its route in such county, if any are made, have been finally determined.

§ 83. Condemnation of real property. In case such corporation is unable to agree for the purchase of any real property required for the

purposes of its incorporation, and its route in the county in which such real property is situated has been finally located, it shall have the right to acquire title thereto by condemnation, but such corporation shall not locate its route or construct any line of pipe through or under any building, dooryard, lawn, garden or orchard, except by the consent of the owner thereof in writing duly acknowledged, nor through any cemetery or burial ground, nor within one hundred feet of any building except where such line is authorized by public officers to be laid across or upon any public highway, and shall not construct any line of pipe that supports facilities or infrastructure associated with exploration, development, or production of oil or natural gas in federal waters located in the north Atlantic planning area. No such corporation shall lay or construct its line of pipe through or under a street in any city, unless it shall first obtain the consent of a majority of the owners of property abutting on that portion of the street in which its pipe line is to be laid. Such pipe line shall be laid with reasonable care and prudence.

§ 84. Railroad and highway crossings. Whenever it shall be necessary for any line of pipe of any such corporation to cross any railroad or highway, such line of pipe shall be laid under such railroad or highway, with the least injury practicable, and unless such right to cross shall be acquired by agreement, compensation shall be made to the railroad corporation, or in case of highways, to the public, in the manner prescribed in the eminent domain procedure law, but no exclusive right, title or use shall be so acquired against a railroad corporation, nor against the public in a highway. No such corporation shall take or use any lands, fixtures or structures of any railroad corporation, or acquire pursuant to the provisions of the eminent domain procedure law, any right or title to the lands of any such corporation, except for the purpose of a direct crossing.

§ 85. Construction across and along canals, rivers and creeks. No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in the manner and upon the terms

prescribed by the, commissioner of transportation, unless constructed upon a fixed bridge across such canal, and with the consent of the person for whose benefit such bridge is constructed and maintained, or upon such a bridge over the canal, at the crossing of a public highway or street, with the consent of the public officers having the supervision thereof, or of the municipal authorities of any village or city within whose limits such bridge may be, nor shall the pipes of any such corporation be laid through or along the banks of any of the canals of this state, nor through or under any of its rivers or creeks, unless such pipes shall be encased, so as to prevent leakage, in such manner as shall be approved by the commissioner of transportation.

§ 86. Consent of local authorities. No pipe lines shall be constructed across or along any public highway without the consent of the public officer or body having supervision thereof, upon such terms as may be agreed upon with him or it, and also in the case of any public highway in any city or village except as provided in section eighty-seven of this chapter, provided that if the highway be one under the sole supervision of a city or village or some official thereof then the authorization of the municipal authorities as required by section eighty-seven shall be sufficient without any other consent made necessary by this section. If such consent, except one required under section eighty-seven, or the consent of the municipal authorities required by the preceding section cannot be obtained, application may be made to the supreme court in the judicial district in which such highway or bridge is situated for an order permitting the corporation to construct its line across or along such highway, or upon such bridge. The application shall be by duly verified petition and notice which shall be served upon the public officer or body having supervision of the highway, or the municipal authorities of the village or city where such bridge is located in a case of consent required by the preceding section, and the court upon the hearing of the application may grant an order permitting the line to be constructed in such manner and upon such terms as it may direct.

§ 87. Construction through villages and cities. No pipe line shall be constructed into or through any incorporated village or city in this state, unless authorized by a resolution prescribing the route, manner of construction and terms upon which granted, adopted at a regular meeting of the board of trustees of the village or the legislative body of the city by a two-thirds vote thereof, but such resolution shall not affect any private right. No pavement shall be removed in any city under the provisions of this article, except as directed by the legislative body, nor until the corporation seeking to remove the same shall give a bond in such sum as the legislative body may require for relaying of any pavements removed. In case any pavement shall have been removed and not properly relaid, the city may sue such corporation, for the cost of relaying such pavement.

§ 88. Over Indian reservations. Such corporations may contract with the chiefs of any nation of Indians over whose lands it may be necessary to construct its pipe line for the right to construct the same upon such lands, but no such contract shall vest in the corporation the fee of such lands, nor the right to occupy the same for any purpose other than for the construction, operation and maintenance of such pipe line, nor shall such contract be valid or effectual until the same has been ratified by the county court of the county in which the lands are situated.

§ 89. Over state lands. The commissioner of general services shall have power to grant to any pipe line corporation any lands belonging to the people of this state which may be required for the purposes of its incorporation on such terms as may be agreed, or such corporation may acquire title thereto by condemnation, except that no corporation may condemn any lands for the purposes of the construction of any line of pipe that supports facilities or infrastructure associated with exploration, development, or production of oil or natural gas in the north Atlantic planning area, and further excepting that no pipe line corporation may condemn any canal lands abandoned pursuant to the provisions of article four of the public lands law until after they have

been sold and conveyed in the manner provided by the public lands law. If any lands owned by any county, city or town be required by such corporation for such purposes, the county, city or town officers having charge of such lands may grant them to the corporation upon terms and compensation agreed upon.

§ 90. Use of line to be public; storage; liable as common carrier; rates and charges. Every such corporation shall be a common carrier and its pipe lines subject to public use. All persons desiring to transport products shall have the right on equal terms to transportation in the order of application, on complying with the reasonable regulations and charges of such corporation. No application for transportation shall be valid beyond the quantity of products that the applicant shall then own and have ready for delivery. Every such corporation shall provide suitable and necessary receptacles for receiving all such products, and for storage at the place of delivery, until the same can reasonably be moved by the consignee. The time for delivery to the consignee shall be fixed by general regulation of the corporation, and shall be not less than two days after the same shall be ready for delivery and notice to such consignee. All rates and charges, for or connected with the transportation of any products, shall be uniform and be fixed by such corporation by general regulations, which shall be written or printed and posted and at all times open to public examination.

§ 91. Receipts for property; cancellation of vouchers; delivery of property. No receipt, certificate or order of any kind shall be issued, made or accepted by any such corporation for any commodity unless the commodity represented thereby is actually in possession of the corporation. No commodity received for transportation by such corporation shall be delivered to any person without the presentation and surrender of all receipts, certificates or orders issued or accepted for the same. Whenever any such corporation shall have parted with the possession of any commodity and received therefor any receipt, certificate or order, such receipt, certificate or order, shall not be used again, but shall be mutilated and canceled, and such canceled

receipt, certificate or order shall be preserved by such corporation and a record of the same kept by the secretary.

§ 92. Semi-annual statements. Every such corporation shall make a semi-annual statement showing the quantity of all commodities on hand on the first day of the period for which the statement is made; the quantity received and delivered during such period, and the quantity on hand on the last day of such period, and the quantity represented by outstanding certificates, receipts or orders, and the credit balances on the books of the corporation. Such statement shall be made on or before the tenth day of the month succeeding the period for which the statement is made and verified by the oaths of the president and secretary, and shall be filed within three days thereafter in the office of the county clerk in the county in which the office of the corporation is located, and a true copy thereof shall be posted in a conspicuous place in its office for at least thirty days thereafter.

§ 93. Fences; farm crossings and use of line not inclosed. It shall not be necessary for any such corporation to fence the lands acquired for its corporate purposes. But, if not inclosed by a substantial fence, the owner of the adjoining lands from whom such lands were obtained, his heirs or assigns, may occupy and use such lands in any manner not injurious to the interests of the corporation and shall not be liable therefor, or for any trespass upon any such lands, except for wilful or negligent injury to the pipes, fixtures, machinery or personal property of the corporation. If the corporation shall keep such lands inclosed it shall construct and provide all suitable and necessary crossings with gates for the use and convenience of any owners of lands adjoining the portion of its lands so inclosed, and no claim shall be made by it against any owner of adjoining lands to make or contribute to the making or maintaining of any division fence between such adjoining lands and its lands. If it shall neglect to keep and maintain substantial fences along its lands the owners of adjoining lands may construct and maintain all farm or division fences, and all line fences crossed by such pipe line, in the same manner as though it had not acquired such lands for

such pipe line, and it shall be liable for all injuries to such fences caused or done by any of its officers or agents, or any persons acting in their or its behalf, or by any laborer in its or their employ or in the employ of any of its contractors.

ARTICLE 8.

FREIGHT TERMINAL CORPORATIONS.

Section 100. Definition.

101. Limitation of powers.

102. Rates; discrimination; liability.

103. Supervision.

104. Corporate acts subject to approval of commissioner of transportation.

105. Merger or consolidation of freight terminal corporations and other corporations formed for the purpose of engaging in business in which a freight terminal corporation may engage.

106. Condemnation; approval of commissioner of transportation.

107. Use of streets; municipal consent.

108. Regulation.

109. Inconsistent acts.

§ 100. Definition. A freight terminal corporation is a corporation organized to supply, maintain and operate freight terminal facilities--including docks, wharves, bulkheads, basins, tugs, floats, lighters and other shipping, and wharfage and lighterage for the receipt, delivery, storage or handling of freight; terminal warehousing, terminal ways, terminal stations and stores; and terminal factory and show room facilities, including power, heat, light and machinery.

§ 101. Limitation of powers. Nothing in this article shall be so construed as to permit any such corporation to engage in manufacture or production, except for its own use, of power, heat, light, supplies and equipment or to carry on the business of generating, selling or

distributing electricity for light, heat or power, nor shall the right, operation and use of such privileges be extended beyond the streets or marginal streets bounding or occupied by the property owned or operated by such corporation. No railroad corporation, and no corporation or joint-stock association engaged in carrying on an express business, shall either directly or indirectly, or through the medium of a holding company or otherwise, purchase, acquire or hold, any stock, bond or evidence of indebtedness issued by any such corporation.

§ 102. Rates; discrimination; liability. Except as to terminal warehouses, show rooms and factories, such a corporation shall be a common carrier. Subject to regulation by the commissioner of transportation, such a corporation may make regulations and fix rates for each class of its business. Such corporation shall impartially serve all requiring its service within the locality described in its certificate of incorporation up to the maximum capacity of its plant and equipment. No receipt, certificate or order shall be made, issued or accepted by any such corporation for any commodity not actually in its possession.

§ 103. Supervision. Every such corporation shall be subject to supervision, control and regulation by the commissioner of transportation to the same extent as railroads and street railroads so far as the provisions of the transportation law are applicable.

§ 104. Corporate acts subject to approval of commissioner of transportation. It shall be necessary for such a corporation to secure the approval of the commissioner of transportation as a condition to the following corporate acts: The issuance of stock; the issuance of bonds, notes or other evidences of indebtedness, payable more than twelve months after the date of issuance; the mortgaging of property, privileges or franchises to secure its obligations; the increase or decrease of its capital or capital stock; the change of number of its shares; the purchase or acquisition of stocks, bonds or other evidences

of indebtedness of any other corporation, domestic or foreign.

Such order of approval shall state that in the opinion of the commissioner the use of the capital to be obtained by the issue of such stock, bonds, notes, or evidences of indebtedness is reasonably required for the purposes of the corporation, and shall specify the amount of each issue thereof to which his approval is given.

§ 105. Merger or consolidation of freight terminal corporations and other corporations formed for the purpose of engaging in business in which a freight terminal corporation may engage. Any two or more domestic freight terminal corporations may merge or consolidate with each other, and any such corporation may merge or consolidate with any other domestic corporation formed for the purpose of engaging in any business in which a domestic freight terminal corporation may engage, in accordance with the procedure and with the effect set forth in article nine of the business corporation law.

§ 106. Condemnation; approval of commissioner of transportation. Every such freight terminal corporation shall have power to acquire by condemnation such real property, except that of a public service corporation, including the right of way through any property, as may be necessary for its corporate purposes. Such acquisition is hereby declared to be for a public use. No real property shall be condemned by any such corporation unless the commissioner of transportation shall first approve of such condemnation and issue a certificate that the property to be condemned is required for freight terminal accommodations needed by the public.

Property devoted to public use for streets, ferries, terminals or otherwise, whether operated by the public authorities or not, shall not be condemned except by permission of and subject to such conditions as may be imposed by the local authority in control thereof, in addition to the approval of the commissioner of transportation.

Nothing herein shall prevent the condemnation by the state or a municipal corporation of the property of a freight terminal corporation, whether or not such freight terminal corporation itself has therefore acquired such property by condemnation.

§ 107. Use of streets; municipal consent. Every such freight terminal corporation may acquire, use and enjoy the privilege to cross or otherwise use the streets adjacent to any terminal way or terminal station with the consent and on such terms as may be imposed by the local authority in control thereof, and subject to the approval of the commissioner of transportation. If such approval be granted, the commissioner of transportation shall issue a certificate (1) that such privilege is needed for public use; (2) that the exercise of such privilege will leave the street in the main available for ordinary street uses; and (3) that the exercise of such privilege will enhance and improve the service afforded by such street to the public. Such privilege shall be revocable by the city on such notice, not exceeding one year, as may be specified therein; but such revocation shall not be effective unless the commissioner of transportation approve of the same and certify that such privilege is no longer needed for public use or that the exercise of such privilege has failed to enhance or improve the service afforded by such street to the public.

§ 108. Regulation. In construction and operation of its plant and equipment and in the transaction of its business, every such corporation shall be subject to all regulations as to construction, fire, health and safety imposed by law, ordinance or local authority.

§ 109. Inconsistent acts. The provisions of any act and parts of acts, including the charter of Greater New York and the charter of any other city of the state, which are inconsistent with this article, and insofar only as they are inconsistent with this article, shall have no application to the rights, powers and obligations conferred or created by and under authority of this article or to any proceedings thereunder.

Nothing in this article shall be construed to prevent the organization of a corporation under the provisions of article four of the business corporation law for the purpose of owning, controlling or operating warehouses, docks, wharves or water craft, but no corporation formed for any such purpose under the provisions of the business corporation law shall have the right or power to acquire real property by condemnation.

ARTICLE 9.

DISTRICT STEAM CORPORATIONS.

Section 110. Definition.

111. Municipal consent to use streets.

112. Service to be furnished upon application.

113. Examination of meters by agent.

114. Entry by agent to cut off steam.

§ 110. Definition. A district steam corporation is a corporation organized to supply steam to consumers from a central station or stations through pipes laid wholly or partly in the public streets.

§ 111. Municipal consent to use streets. A district steam corporation shall have power to lay and maintain suitable pipes and conduits or other fixtures in and under the streets, parks and public places of the cities, villages or towns mentioned in its certificate of incorporation upon obtaining the written consent of the local authorities thereof and upon such reasonable regulations as they may prescribe. Such local authorities shall be: in a city, a majority of the members of the local legislative body; in a village, a majority of the members of the board of trustees; in a town, outside of a village, the town superintendent of highways and a majority of the members of the town board.

§ 112. Service to be furnished upon application. A district steam corporation, upon the application in writing of the owner or occupant of

any building or premises, within one hundred feet of any street main laid down by any such corporation, and payment by him of all money due from him to it such corporation shall supply steam as may be required for heating such building or premises, notwithstanding there may be rent or compensation in arrears for steam supplied, or for meter, pipe or fittings furnished to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or to exonerate him from the payment of such arrears, and shall refuse or neglect to pay the same. If, for the space of twenty days after such application, and the deposit, if required, of a reasonable sum to cover the cost of connection and two months' steam supply, the corporation shall refuse or neglect to supply steam as required, it shall forfeit to such applicant the sum of ten dollars and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue. No such corporation shall be required to lay a service pipe for the purpose of supplying steam to any applicant when the ground in which such pipe is required to be laid is frozen, or otherwise presents serious obstacles to laying the same, nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay for two months' steam supply and the cost of the necessary connections and of the erection of a meter and such other special apparatus as are required for use in connection with such steam supply, and provide the space and right of way necessary for the erection, maintenance and use of such connections and apparatus, and signify his assent in writing to the reasonable regulations of the corporation with reference to the supply of steam to consumers. For the purposes of this section, a district steam corporation shall not include a non-profit cooperative corporation organized under the cooperative corporations law to make or produce and distribute steam solely for the use of its members.

§ 113. Examination of meters by agent. Any such corporation may make an agreement with any of its customers, by which any of its officers or agents shall be authorized at all reasonable times to enter any dwelling, store, building, room or place, supplied with steam by such corporation and occupied by such customer, for the purpose of inspecting

and examining the meters, devices, pipes, fittings and appliances for supplying or regulating the supply of steam, and for ascertaining the quantity of steam consumed, or the quantity of water resulting from the condensation of steam consumed. Every such agreement shall further provide that such officer or agent shall exhibit his written authority if requested by the occupant of such dwelling, store, building, room or place. Any person who shall directly or indirectly prevent or hinder such officer or agent from entering such dwelling, store, building, room or place, or from making such inspection or examination, in violation of such agreement, shall forfeit to the corporation the sum of twenty-five dollars for each offense.

§ 114. Entry by agent to cut off steam. If any person, corporation or association supplied with steam by any such corporation, shall neglect or refuse to pay the rent or remuneration for such steam, or for the meter, device, pipes, fittings or appliances, furnished by such corporation it may thereupon prevent the steam from entering the premises of such person, persons, corporation or association. If a person is liable to a forfeiture, or to fine or imprisonment, for a wrong or offense committed against the corporation, its agents, or property for which such forfeiture, fine or penalty is imposed by law, such corporation may also prevent the steam from entering the premises of the person so liable, or if such person be an officer or agent of any corporation or association, prevent the steam from entering the premises of such corporation or association. In all cases in which such corporation is authorized to prevent the steam from entering any premises, it may, by its officers, agents or workmen, enter into or on such premises between the hours of eight o'clock in the forenoon and six o'clock in the afternoon and cut off, disconnect, separate and carry away any meter, device, pipe, fitting or other property of the corporation; and may cut off, disconnect and separate any meter, device, pipe or fitting, whether the property of the corporation or not, from the mains or pipes of such corporation.

ARTICLE 10.

SEWAGE-WORKS CORPORATIONS.

Section 115. Definitions.

- 116. Consent to incorporation.
- 117. Approval by department of health.
- 118. Inspection; cost certification.
- 119. Guaranties.
- 120. Option.
- 121. Duty to supply sewage-works facilities.
- 122. Powers.
- 123. Survey and map.
- 124. Condemnation of real property.

§ 115. Definitions. As used in this article, the term:

1. "Sewage-works corporation" means a corporation heretofore or hereafter organized to provide a sewer system as hereinafter defined for the disposal of sewage, through an established system of pipe lines, treatment plants and other means of disposal, and which erects, operates, maintains and performs other necessary acts incidental thereto, disposal systems for sewer areas formed within towns or villages and other municipal areas of the state.

2. "Sewer system" means all sewer pipes and other appurtenances which are used or useful in whole or in part in connection with the collection, treatment or disposal of sewage, and other waste, including sewage pumping stations and sewage treatment and disposal plants and sites.

3. "Local governing body" means the legislative body of a city, town or village authorized by law to establish a sewer district or otherwise to provide sewage-works facilities in such city, town or village wherein is located the area to be served by the sewage-works corporation.

4. "Sewer district" means a county sewer district established pursuant to article five-A of the county law or a town sewer district established pursuant to article twelve or article twelve-A of the town law.

§ 116. Consent to incorporation. 1. No certificate of incorporation of a sewage-works corporation shall be filed unless there be annexed thereto a certificate or certificates duly executed in behalf of the local governing bodies of the city, town or village, as the case may be, in which any part of a sewer system provided by such corporation is situate and, in the county of Suffolk, an additional certificate duly executed in behalf of the county sewer agency, consenting to the formation of the corporation for the area described in such certificate.

2. Upon receipt of a request for consent to incorporation, the local governing body shall grant or deny such request within sixty days thereafter or within sixty days after notice to it of the approval of maps and specifications of the proposed system filed with the department of health having jurisdiction pursuant to section one hundred seventeen of this article, whichever is later.

§ 117. Approval by department of health. A local governing body shall not consent to the establishment of a sewage-works corporation in any municipality unless there shall first be filed with the department of health, or city, county, or part-county department of health having jurisdiction, maps and specifications of the proposed system and such department shall have given its approval thereof.

§ 118. Inspection; cost certification. 1. The local governing body, except in the county of Suffolk, the county sewer agency shall utilize any licensed professional engineer in its own personnel staff, or retain a licensed professional engineer or engineering firm to cause the following to be undertaken and completed:

(a) Initial examinations of the plans and specifications and a report to the local governing body and in Suffolk county also to the county sewer agency on the feasibility and adequacy thereof including recommended modification and changes, if any;

(b) Inspections at reasonable intervals during and after the

construction of the sewage-works systems and a report to the local governing body and in Suffolk county also to the county sewer agency on the progress thereof;

(c) A report to the local governing body and in Suffolk county also to the county sewer agency on the cost of construction of the sewage-works system and appurtenances thereto and acquisition of all lands and rights in land therefor, which, in turn, shall apprise the corporation of such cost report. As a part of his report, the licensed engineer or engineering firm shall have the right and duty to examine or have examined the books and records, including all underlying documentation, of the corporation as well as all reports submitted by the corporation to governmental agencies or authorities to ascertain and verify the costs of construction and acquisition. The services of a licensed certified public accountant or licensed public accountant may be utilized, where in the judgment of the engineer, they may be required to properly ascertain and verify the fiscal information to be included in the engineer's report.

(d) A report to the local governing body and in Suffolk county also to the county sewer agency that construction has been completed in accordance with the plans and specifications filed with and approved by the department of health having jurisdiction.

2. The cost of any such retained licensed professional engineering services shall be reimbursed to the local governing body or sewer agency by the corporation, in accordance with an agreement which shall be entered into between such local governing body or sewer agency and such corporation stating the cost of such services and the terms for payment thereof.

§ 119. Guaranties. 1. The local governing body shall require the posting of a performance bond for the completion of the construction of the sewage-works system, and may require the posting of an additional bond or other guaranty for the payment of labor and material furnished in the course of such construction, and for the cost of retained engineering services to the local governing body or sewer agency.

2. The local governing body shall require a reasonable guaranty from the corporation that said corporation will continue to maintain and operate the system for a period of at least five years, in the form of a bond or other security acceptable to the local governing body in the amount of the estimated cost of the operation and maintenance of the sewage-works project, less the estimated revenues which are received from properties served, and to be utilized to defray such operation and maintenance costs, as reported by the licensed professional engineer or consulting engineering firm to the local governing body. The local governing body may, and on petition of the corporation shall, at any time review the adequacy of such bond or other security, to ascertain whether it should be modified on the basis of fiscal performance or other conditions.

3. (a) In addition to the guaranty, the stock of the corporation shall be placed in escrow and title thereto shall pass to the local governing body in the event of failure to complete the construction thereof, or in the event of abandonment or discontinuance of the maintenance and operation of the system by the corporation.

(b) In the county of Suffolk said stock placed in escrow may pass, with the consent of the local governing body and the board of supervisors to a county sewer agency in the event of failure to complete the construction of said sewer system, or in the event of abandonment or discontinuance of the maintenance and operation of said system by the corporation.

4. In the event of such abandonment or discontinuance of the maintenance and operation of the system, the local governing body shall have the right to continue the maintenance and operation of the system at the established rates, with the costs assessed against the users, and it may levy taxes, or sewer rents for such purposes in the same manner as if such facilities were owned by a city, town or village, as the case may be. The local governing body shall have such powers until such time as another corporation or agency may undertake to maintain and operate the sewer system, or until such time as it becomes a part of a municipal or sewer district system.

5. In Suffolk county in the event of an abandonment or discontinuance of the maintenance and operation of the sewer system, the county agency shall have the right to undertake to maintain and operate such sewer system, and it shall do so at the established rates, or such other rates as it may deem necessary, with the costs, including delinquent accounts, assessed against all of the users until such time as the sewer system is included in a sewer district which shall maintain and operate the sewer system.

§ 120. Option. (a) The local governing body may, at the time of granting the consent to incorporation, require an option to purchase the system from the corporation or at any time shall have the right to purchase or acquire it by condemnation. The local governing body may exercise this option by serving written notice on the corporation, not less than ninety nor more than one hundred eighty days before the date of the taking.

(b) In Suffolk county and Saratoga county, the county sewer agency having the prior consent of the local governing body and the county legislature or a county district shall have an option to purchase the sewer system from the corporation by paying the cost thereof and for all additions and improvements as certified by the engineer as of the date of completion thereof pursuant to section one hundred eighteen, less depreciation on a schedule initially agreed upon but not to exceed thirty years, together with the cost of the land and other costs thereof as of the date of completion. The said county agency or county district may exercise its option by serving written notice on the corporation not less than ninety nor more than one hundred eighty days before the date of taking. The county agency or county district may, instead of making any cash payment agreed or required to be made to the corporation as compensation for such sewer system and land, elect to agree to pay the principal of and interest on outstanding bonds and mortgages issued by or on behalf of such corporation, having a principal amount not exceeding the amount of such cash payment, as such principal and interest shall become due and payable. In the event the county agency does undertake to purchase, maintain and operate such sewer system, it shall do so at the rates established from time to time and agreed to

between the county agency and the local governing body, with the costs, including delinquent accounts, assessed against the users until such time as the sewer system is included in a sewer district which shall maintain and operate the sewer system. Notwithstanding the foregoing provisions, in Suffolk county and Saratoga county a county district may elect to acquire the sewer system, including any and all plant sites and other real property pursuant to the provisions of the eminent domain procedure law and in such event the provisions of such law shall apply.

§ 121. Duty to supply sewage-works facilities. A sewage-works corporation shall supply each city, town, village or other municipal area or district wherein such corporation operates, and the inhabitants therein, with facilities or make provision for the collection, treatment and disposal of sewage at fair, reasonable and adequate rates agreed to between the corporation and the local governing body or bodies, and, in addition, in the county of Suffolk, the county sewer agency, notwithstanding the provisions of any general, special or local law. Rates shall be reviewable at intervals of not more than five years or at any time by petition of the corporation or motion by the local governing body on written notice after a period of ninety days. The petition of a corporation shall be determined within ninety days of its filing, and in the event a determination is not rendered within such period of time, the petition shall be deemed approved. The local governing body of a city or village, or of a county or town on behalf of a sewer district or for a special sewer improvement shall have the power to contract with a sewage-works corporation for collection, treatment or disposal of sewage. No contract for such services shall be executed for a period greater than ten years.

§ 122. Powers. Every sewage-works corporation shall have the power:

1. To lay, maintain, repair and operate its pipes, conduits and sewers in any street, highway or public place of any city, town, village or other municipal area, in which it has obtained the consent required by section one hundred sixteen for the disposal, treatment and removal of

sewage, and to operate and maintain and keep in repair its sewage disposal plants, and prescribe the manner in which sewer connections shall be made. No pipes, sewers or conduits shall be laid or repaired under any highway, road, street or avenue by such corporation, without the consent of the local governing body or its official in charge of highways or streets or if such highway be a state highway, or a highway constructed pursuant to section one hundred ninety-four or one hundred ninety-five or article six of the highway law, the consent of the state commissioner of transportation nor in any street, highway, road, avenue or public place in Suffolk county without the prior written consent of the county sewer agency or the county department of environmental control.

2. To cause examinations and surveys to be made for the purpose of determining the proper location of its disposal system, and, for such purpose by its officers, agents or servants, to enter upon any lands or waters, subject to liability for all damages done.

3. To enter into appropriate agreements with the secretary of agriculture of the United States department of agriculture to operate without profit for the term specified therein for the purpose of qualifying to receive federal assistance pursuant to the consolidated farmers home administration act of nineteen hundred sixty-one and any federal laws amendatory and supplementary thereto. Any such agreement to operate without profit shall be subject to the approval of a majority of the stockholders entitled to vote thereat at any regular or special stockholders' meeting. Any stockholder so entitled to vote who does not vote for or consent in writing to the taking of this action, shall, subject to and by complying with the provisions of section six hundred twenty-three of the business corporation law, have the right to receive payment of the fair value of his stock and the other rights and benefits provided by such section.

§ 123. Survey and map. Before taking or using any land, for its corporate purposes such corporation shall cause a survey and map to be made of the lands intended to be taken designating the land of the

several owners or occupants thereof, which map shall be signed by the president and the secretary, and filed in the office of the clerk of the county in which such lands are situated.

§ 124. Condemnation of real property. Any such corporation shall have the right to acquire real estate, or any interest therein, necessary for the purposes of its incorporation, and the right to lay, repair and maintain conduits and sewer pipes with connections and fixtures, and other necessary portions of the system, in, through or over the lands of others. If any such corporation, authorized by this article shall be unable to agree upon the terms of purchase of any such property or rights, it may acquire the same by condemnation. Notwithstanding the foregoing, in Suffolk county such corporation shall not have the right to condemn or use the land of others without first obtaining the prior written consent of the county sewer agency and the department of environmental control.