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ward to R  
Kearney

Concession to Nairobi Electric Co.

1910

17 Dec.  
Previous Paper

Submit further proposals by Co. with  
reports by Dir. of Public Works & Crown  
Advocate

26413

W. Read.

The duplicate has already been sent  
to be printed.

Bring before Concessions Committee  
adding prints of Gov. & our best report  
to remind them how the matter  
stands

JAB

Dec. 19

at once

H. J. R.

20/20

O. J. O.

copy for Compt 23 Feb. 1910

Subsequent Paper

39994

Mr Butler

This matter has considered  
by the Accession Committee at the  
XXXIX<sup>th</sup> meeting held on the 30th  
Dec 1910. The extract from the  
minutes (in which Sir E. S. Edwards has  
assented) is enclosed

J.H.W.

6/1/11

Mr. Butler

We can only wait till Sir  
G. has put forward what he  
has considered. He has been  
for some time and the  
going of March.

Has

for

J. H. W.

6/1

Mr. Butler

Mr. H. W.

See the letter

See

9

See

This is not very helpful, for  
at present advised I am not inclined to Sir P.  
G's big responsibility at Kaniob. 11/1/11

See  
G. W.

Extract from the Minutes of the  
 XXXIXth Meeting of the Concessions  
 Committee held in India on the  
 20th December 1910

SUBJECT 2. As regards the work performed by the Company the Governor said that the whole town of Nairobi was splendidly lighted - there being about 12 miles of street lighting in all - and that power had been installed. The work had been done at a fairly low figure - the system being run by the water supply at the Ruera River.

The application of the Company was for further facilities on the Thaka and <sup>Chania</sup> Ghaga Rivers and an extension of the contract (without monopoly rights) for another 25 years. In exchange they are willing to give up all their rights on the Ruera, Eburaga, Kamitia and Kambani Rivers. The Governor said that certain persons were morally entitled to the use of the water at the two Falls on the Thaka River and that on one side a distinct right had been given to the purchaser of a farm. Part of the falls was still the property of the Government, and the Company desired to have the use of the whole. The question of irrigation arises on all the rivers but the landowners have no riparian rights as in England. The water rights belong exclusively to the Government.

The Committee then proceeded to consider the proposals put forward by Mr. Baylton in his letter of the 1st November 1910 (enclosure in 28506). The principal points discussed were:- (1) The Extension of the Lease:-

This point was dealt with in the course of the discussions on the succeeding points.

(2) Source of Power. With one exception the landowners

landowners on all sides of the <sup>particular</sup> Theka and <sup>under the</sup> Chaga falls had agreed to the running of a trench by the Company and the owner whose consent had not been obtained had told the Governor that he did not propose to raise any objection.

(4) Further storage facilities. No objection to proposal.

(5) Safeguard of Company's power supply:

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Under the law as it stands the water rights are the property of the Government: in certain cases rights have been given but the Governor does not desire, in this instance, to give any rights above the falls. There is ample water above and there is little or no risk of the Company being deprived of power owing to the water being taken for irrigation purposes above the falls. The country is not <sup>real</sup> an irrigation country, as there is a good rainfall: and the Governor stated that the possibility of trouble between the settlers and the Company might be regarded as negligible. It was pointed out however that conditions might materially alter during the course of the 50 years for which the concession, if extended, would run, and that the tying up of water powers for such a long period might retard the development of the country. The Governor stated that, as there were at least 100 water powers in the neighbourhood of Nairobi, the supply was ample, and no trouble was to be apprehended on that score.

The Governor is opposed to the power supply of the Company being definitely safeguarded. He considers that the supply of water will in ordinary circumstances be ample for all purposes, and that it would retard the development of the country above the falls (all the farms being occupied right up to the native reserves) if the settlers were given to understand that they

would

would not be allowed to irrigate their lands in time of drought. The Company and the settlers should both take the risk of drought, and it might be left to the Government to decide between them in any particular case. It would certainly be less injurious to the community for the electricity works to be suspended for a time than for the crops to be lost through lack of water. Mr. Cox suggested that the matter might be dealt with by legislation - provision being made for the question of the conflicting interests of the Company and the farmers in cases of drought to be settled by a competent engineer. The Governor further pointed out that a large number of farmers (running into hundreds) was adversely affected by the present rights of the Company on the Ruaga, Ruwaga, Kundu, and Nairobi Rivers, while the rights which it was proposed to give in exchange on the Thika and Chiro Rivers affected <sup>and could</sup> ~~only~~ hereafter affect a comparatively few persons.

There would be no difficulty as regards the rights of the people below the falls, as the water would be returned to the river and would not be fouled. Mr. Grindle said that in Jamaica a difficulty had arisen as to the time of return in the case of waters taken from a river, but it was pointed out that in the present instance the water would go straight through the turbines and would be immediately returned to the river. The water would be taken out of the river and returned

by means of a long mill race, and, at most, it would affect, below the falls, only one farmer with whom the Company had already come to an agreement.

The Governor further <sup>said</sup> ~~said~~ that, although the Company had done much useful work, it was doubtful whether the community would be favourable to any extension of the lease. At one time Mr. Baldwin suggested that the concession should be bought back by the Government for £20,000. Although power was not much used at present, there was some talk of the construction of tramways in Nairobi, and the Governor said that, if the question of establishing a Municipality were settled on a satisfactory basis he should like the Municipality to take over the Company. When mentioned on this point, the Governor said that of course the present rateable value of Nairobi would not be sufficient to render it <sup>self-</sup>governing, but that the place could not be fairly compared with developed towns in England, but should rather be compared with the new townships in Canada, where large areas of land were placed at the disposal of the Municipalities with a view to making them self-sufficient. If the Municipality of Nairobi was placed on a similar footing, it would be in a position to raise a loan for the purpose, inter alia, of acquiring the interests of the Company.

It was then Resolved that :-

\*Further consideration of the question of the concession of the Nairobi Electric Company shall be deferred, pending the receipt of the Secretary of State's decision upon the Joint representations which the Governor proposes to make in regard to the Municipality.

J.F.H. 3/12/10

38556

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Rec<sup>d</sup>  
Dec 17 1910

Downing Street,

17 December, 1910.

CONFIDENTIAL.



Sir,

*26413*

With reference to my despatch Confidential  
of the 1st August, 1910, I beg to inform you that the  
Managing Director of the National Electric Company has  
now submitted further proposals with regard to that  
enterprise. These have been submitted to the Commis-  
sioner of the Public Works Department and the Crown  
Advocate who considered the original proposals of  
August 1910 and their reports with Mr. Baydon's letter  
are attached. I would beg to suggest that the matter  
may be considered while I am in England.

I have the honour to be,

Sir,

Your obedient Servant,

UNDER SECRETARY OF STATE,

COLONIAL OFFICE, S.W.

Secretary.

I agree with Mr. Ross that Mr. Bayliss's project would, if accepted, be much to advantage of his Company.

I do not, however, consider, that there are any substantial objections to the term of the Company's concession being extended provided that the following conditions are accepted by them:-

(1) That the Company's charges for electricity supplied within the district in which they now enjoy a monopoly shall be subject to revision at the end of the term of the present concession in like manner as may be revised at the end of 10 years.

(2) That within the district in which they now have a monopoly the Company shall continue during the extended period under an obligation to supply electricity, at or below the maximum charges fixed, to any person demanding it, unless and until the Municipal Authority notify the Company that it is prepared to supply electricity to any person requiring it for lighting and power purposes within the Municipal area.

2. I do not consider that the Government should give any undertaking to resume possession of lands solely for the purpose of granting to the Company a way-leave over such lands. If necessary, legislation

might



might be introduced to enable the Company to compulsorily acquire on payment of compensation such way-leaves as may be necessary to them in carrying out their obligation under their contract with the Government.

3. By the extension of the term of the concession and by the acquisition of the best falls in the neighbourhood of Nairobi the value of the Company's concession will be enormously increased, and the persons interested should have no difficulty in raising the capital required for the construction of their works on the Thika Falls. I would, therefore, suggest that it is neither necessary nor desirable that the Government should give any undertaking to grant to the Company a concession to run electric trams in Nairobi.

4. Apparatus and appliances used in connection with the generating and storing of electricity, not including electric cable or wire and the poles for carrying the same, are exempt from import duty. I consider the exemption to be fair and do not recommend any extension of the exemption.

(Sd.) E. M. GIBSON,

Crown Advocate.

Nairobi

19th November, 1910.

HON. CROWN ADVOCATE.

SECRETARY.

The project formulated by the Managing Director of the Nairobi Electric Power and Lighting Company in his communication of the 1st instant is a new one to me though it appears from his first paragraph that negotiations have been proceeding in the past. My remarks are, therefore, confined solely to the proposal as it appears in this communication.

2. The proposal amounts to this:

- (a) that Government should extend the Company's concession for another twenty five years, i.e. up to 1956;
- (b) that Government should allow the Company to have the use of the falls on the Thaka river (a concession of great commercial value);
- (c) and that Government should guarantee a certain small return on the capital required for the institution of the projected large power-station on the Thaka by ordering the installation of electric motors in Government workshops in Nairobi, and by electrifying the Thaka Tramway;
- (d) that Government should promise a Tramway concession in Nairobi.

3. The advantages to the Company are

- (a) the sole right to use the largest source of power in the Nairobi-Fort Hall region. This for all practical purposes continues the Company's monopoly until 1956, as it

unlikely

unlikely that any other competing company would attempt operations in the absence of alternative sources of power at all comparable to the Theka falls, which would be in the possession of this Company;

- (b) that the Company's business, as a going concern would be a much more saleable commodity than it is in its present form;
- (c) that this grant would, for all practical purposes, render impossible the institution of municipal electrical undertakings by the Nairobi municipality upon the expiration of the Company's present concession in 1931;
- (d) that it would leave the Municipality practically at the mercy of the Company as to the terms upon which their business should be taken over, whereas if the very inviting source of power on the Theka were still unattached at that time, the fact that the Municipality could erect off negotiations for the socialisation of the Company's property; and install a supply project of their own, would have a powerful effect in moderating the demands of this private undertaking against the community;
- (e) that it would tend to economy in the Company's annual expenditure on running and maintenance of their plant. On capital expenditure on mains, and particularly on recurrent expenditure in wages, the economy

of supplying from one station as compared with three stations which would have to be instituted under the present concession, is very marked.

(f) the Company would only have to buy land on one side of the Theka falls instead of in two places - on the Nairobi and Roaraka rivers - as will be necessary if they utilize these two falls reserved to them under their present concession.

4. The advantage to the community may be supposed to lie in the better service which could be rendered from a larger power station and in the early availability of electricity over a much larger area than will be supplied by this Company if they are restricted to the rights granted under their present concession.

5. There is also the advantage to certain landowners on the Ruja river that any objection to their using water for irrigation purposes would, so far as the Company is concerned, cease. As against this, it must be borne in mind that similar troubles would probably arise on the Chanja and Theka rivers, where there are already settlers in residence, for the Company clearly anticipate that the low-weather flow of these rivers might prove unequal to their requirements. Hence the request for sanction to impound flood waters on both rivers.

6. The

6. The grant of the sole rights to use water power from the Theka Falls would thus entail marked advantages for the private Company possessing them, whereas it does not appear that any equivalent material advantage would accrue to the community. In fact in the particular direction specified above in paragraph 3(d) the community would be placed at a signal disadvantage. The working of the Company's business could be carried on with increased economy, yet there is at the same time no suggestion that any disposition in the rates charged to the public or to the Nairobi Municipality is to be made.

7. I consider that the grant of any such valuable rights should be withheld in this particular case until Nairobi emerges as a responsible municipality. If on this occurring, and on the project being referred to the Municipal Authorities, they recommend to His Excellency that the concession should be extended on the lines proposed in the communication under notice, the chief argument against the proposal would cease to carry the same weight as it does when no such reference has yet been made. The extension of the concession would be to all intents and purposes an extension of monopoly, and would have so marked a financial effect on the position of the Municipality that I recommend that Government action should be largely guided by the view that a responsible Municipal Committee might put forward.

8. In the event of negotiations then proceeding, I consider that permission to store water might be

conceded

conceded, subject to domestic and irrigation rights on the Chania and Theka being safeguarded. I consider that a wayleave for mains might be promised, and that the requested rebate of Customs duty on power plant might be granted. No promise of a Tramway Concession in Nairobi should however be made.

9. The argument "in misericordiam" as to the embarrassment to Government in electrifying workshops and the Theka Tramway being "little or nothing when compared" with what the shareholders of the Company will have to put up with, is scarcely a business one and should be disregarded. It is not likely that the workshops could be run as cheaply as they are at present, and the Theka Tramway, with a meagre service of trains making only infrequent halts enroute, and traversing a district with an extremely thin and scattered population, presents a series of conditions about as far removed as can well be imagined from the ideal of a line upon which economical electrification could be instituted.

(Sd.) W. McNEILL ROSS,

B.Eng.

for Commissioner, P.W.D.

Nairobi,

November 8th, 1910.

THE NAIROBI ELECTRIC POWER AND LIGHTING  
COMPANY LIMITED.

Nairobi,

British East Africa.

1st November, 1910.

Your Excellency,

On the basis which we discussed the other day, I now beg to put forward the lines on which a general alteration of our Concession would be acceptable to my Company and from our discussion, I hope also to Government.

I put it roughly for convenience under the following heads:-

1. The concession to be extended a further period of 25 years under the same conditions as at present, but that during this extended period we shall have no monopoly as at present.

2. District of supply. That we shall be permitted to supply anywhere our plant can reach, but shall have no monopoly of supply outside our present District, (but we shall not be bound to supply where we have no monopoly).

3. Source of Power. We to purchase the necessary land to enable us to use the Falls on the Theka River, situate about 12 miles below the Fort Hall Road, the Government to lease us the small and wholly inadequate reserve which they have retained on one side of a portion of that fall.

4. Further storage facilities. A suitable site to be chosen within the present native reserve above the Fort Hall Road, to be situate one on the Chania and one

on the Thika River, for the purpose of erecting storage reservoirs at some later date. The Company to have the right to these sites for this purpose only and on reasonable requirement of the same.

5. Safeguard of Company's power supply. The Company is quite in agreement with the Government in desiring that all reasonable facilities shall be given to farmers on the Thika River to use water for irrigation purposes, but they think that the Government will realize that some safeguard must be given them, else it would be possible at a later date, by allowing a misuse of water or unfair diversions not now contemplated, to so seriously embarrass the Company as to make their position untenable.

6. Present falls. The Company to repudiate all claims to the prevention of taking out of water above them, directly they get their new plant at the Thika in operation.

7. Wayleave for mains. In view of the present uncertainty as to whether electric mains (overhead) come within the scope of the 1902 Land Ordinance, the Government would in the event of land holders refusing reasonable wayleave, be prepared to enforce it, by if necessary, re-entering into sufficient land to allow of a public road (which it costs the Government to do), in which the mains can then be erected.

A threat of so doing will probably be sufficient to bring the landholders to reason.

This is only fair, as a wayleave, in a reasonable



reasonable position cannot damage the landholder, and refusal to grant it only means an attempt to plunder the Company.

8. Customs. The industry of the generation and distribution of electric energy to be placed on the same basis as all other industries, such as printing, ice-making etc. etc. and if revenue is required, the electric industry not to be penalised by being singled out for taxation as at present, but all industries pay the same import duty on their plants.

9. Tramways in Nairobi. Unless the Nairobi Municipality is prepared to instal them themselves, within a reasonable time, the Company to be given a fair concession to enable them to do so.

In this connection and as a result of fact, being to the fact that the telephone, telegraph, our high and low tension mains, are all overhead, it appears to the Company that as a matter of public convenience, would be much better for the extra mains required for tramways to be under the Company's control, also it is doubtful whether the town is now too small to allow of an independent tramway authority for years, whereas it may be financially feasible to run them as a side-line to the supply authority.

10. The Company being prepared, at great expense to themselves but to the good of the district, to move for their power supply to a position further out of Nairobi, entailing large extra capital expenditure on mains, purchase of land, etc., whereas they could by utilising the falls at present reserved for them, carry on for years, minimising their capital

expenditure

expenditure and only erecting little stations as the demand grows and pay dividends straight off on each, while under this new scheme the works must be of such a size as cannot hope to be fully utilised for many years, which means waiting for dividends, which in a country with an 8 per cent Bank rate is a serious matter, feel that the Government should treat them in the same spirit as they are prepared to meet the Government in and should endeavour to minimise their loss by making use of their power throughout their works.

This means a capital outlay by the Government, perhaps inconvenient, but that outlay having been faced the Company will guarantee to supply the Government with power at a cheaper rate than they can make it by the use of steam or oil. It must be remembered that the present concession, inconvenient as it is, by the holding up of water through the use of these many small falls, has in the past been an onerous undertaking on those who invested money in carrying it out.

The concession in its present form should not have been given, not only in the interests of the public, but also in the interests of the water supply it prejudices, but in the interests of the British public, who it was known would be asked to invest in it, for it is distinctly misleading in parts.

Now, however, after years of loss, those who invested in it, having just reached the point of overcoming their difficulties and having a fair prospect

prospect of immediate returns, will have to defer going so till development sufficient to make a big scheme pay, has been reached in this district, it will be unwilling to do so, cannot, but feel that even if it is a small inconvenience to Government to find the necessary capital to electrify their undertakings, it is little or nothing when compared with what they have had to do till now to do the suggested change, out of their own pockets.

The Government therefore should undertake to install electric motors in the U.R. and P.W.D. workshops at Nairobi, and to electrify the main tramway, the Company undertaking to supply power in each case at a rate which will cover out-charges, but utilising steam or oil engine power.

Naturally of course a reasonable period should be stipulated for making the change, and the Company will satisfy the Government as to the reliability of their supply.

Also a small further sum is required to complete the electric installations into Government officers' quarters in Nairobi. The Government being a compulsory landlord to its servants it is only fair that it should give the same facilities to them as private landlords do, and as Government officers already pay 5 per cent interest on the costs of the installation, the Government does not lose on it.

Government might, therefore, well provide the small extra sum which would allow of its junior officers having light installed into their houses.

as well as the senior ones who now alone have it, and this would help the Company, as it would enlarge the field of available consumers; as most of these people, if they were renting their houses from private landlords would move if the Landlord would not instal electric light.

The Company being bound under the Contract which it has with Government to extend its plant to meet the requirements of the district as they increase have now reached a stage when it becomes necessary to make the first increase and this increase of plant cannot be delayed.

Whether it is to be made along the lines of the plant or several small ones, it now rests with Government to decide, but I cannot too strongly represent to Your Excellency that the turning point has now arrived when it must be decided once and for all which it is to be, and I do most respectfully ask that this matter may be of the first which Your Excellency will put forward on your arrival in England and that a decision will be given to me by cable, so that I can make my arrangements one way or the other.

If there are any points likely to raise controversy later, which appear to Your Excellency in these suggestions, I shall of course be happy to wait on you whenever you please in the hope that both yourself and the Company may be in agreement as to what is a fair compromise before you leave for home,

as I can only assure Your Excellency that the worries  
which have arisen over this Concession are as repug-  
nant to me as they must be to yourself.

I have, &c.,

(Sd.) R. B. BAYLON.

HR EXCELLENCY

SIR E. P. G. GIBOUARD, K.C.M.G.,

&c. &c. &c.

copy.

THE NAIROBI ELECTRIC POWER AND LIGHTING COMPANY, LIMITED.

Nairobi, E.E.A.,  
3rd November 1910.

Your Excellency,

In reference to my letter of the 1st instant, two points occur to me.

1. Owing to the fact that an electric railway does not fear heavy gradients, could not sufficient saving be effected in construction of the Thika tramway to practically cover the cost of its electrification?

2. The site which we should be building our dam at, if we use the fall now suggested is practically an ideal one, in comparison with others for crossing the Thika. Cannot we save on the cost of an expensive bridge, by natural arrangement in construction of the dam.

Would Your Excellency allow the Engineer in charge of the work discuss it with us, so that a report on it may be submitted to you.

I have, etc.,

(Sd.) R.C. BAYLON,

Managing Director.

YOUR EXCELLENCY

SIR E.P.O. BIRQUARD, K.C.M.G., D.S.O., R.E.,

GOVERNOR, E.E.A.