CHAPTER xxvii.

An Act for granting additional powers to the Dumfries and Maxwelltown Waterworks Commissioners and for other purposes. [3rd June 1897.]

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WHEREAS by the Dumfries and Maxwelltown Waterworks Act 1850 (herein-after called the Act of 1850) the Dumfries and Maxwelltown Waterworks Commissioners (herein-after called the Commissioners) were authorised to supply with water the royal burgh of Dumfries the adjacent burgh of barony of Maxwelltown and the suburbs of those burghs within the limits of the said Act:

And whereas the rating provisions of the said Act were explained and amended by the Dumfries and Maxwelltown Waterworks Amendment Act 1852 (herein-after called the Act of 1852):

And whereas the population trade and manufactures of the said burghs and suburbs have increased and are still increasing and it is expedient that the limits for the compulsory supply of water prescribed by the Act of 1850 should be extended and the rating provisions of that Act and the Act of 1852 amended that the Commissioners should be authorised to grant supply by agreement to local authorities and persons beyond the limits of compulsory supply and that further provisions should be made for regulating the supply and preventing the waste or misuse of water and for the nomination and election of Commissioners from the ratepayers and that in these and in other respects as herein-after provided the said Acts should be amended:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and

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Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the Dumfries and Maxwelltown Waterworks (Additional Powers) Act 1897 and the Act of 1850 (amended and varied by this Act) and this Act (herein-after called the Acts) may be cited together as the Dumfries and Maxwelltown Waterworks Acts 1850 and 1897.

Act of 1852 and certain provisions of Act of 1850 repealed.

2. The Act of 1852 is hereby repealed and subject to the provisions of this Act sections 5 8 11 14 15 23 26 27 29 36 37 and 38 of the Act of 1850 and also all such other provisions of the last-mentioned Act as are in any way inconsistent with this Act are hereby repealed.

Incorporation of general Acts.

3. The Lands Clauses Acts the Commissioners Clauses Act 1847 (except sections 19 to 33) the Waterworks Clauses Act 1847 (except sections 44 to 47 68 70 to 72 and 75 to 83) and the Waterworks Clauses Act 1863 are except where varied or otherwise provided by the Act of 1850 and this Act incorporated with and form part of this Act.

Commissioners incorporated.

4. The Commissioners shall be a body corporate under the name of the Dumfries and Maxwelltown Waterworks Commissioners with perpetual succession and a common seal and shall have power to sue and be sued in that name alone and to purchase take hold and dispose of lands and other property for the purposes of their undertaking and shall have all the other powers and privileges of a body corporate and all deeds and instruments to be made or granted by the Commissioners under that name shall be valid and effectual if subscribed by any two of their number and sealed with their common seal.

Vesting of property.

5. From and after the passing of this Act the whole lands heritages assessments claims demands and effects of every kind which belong to or are vested in or would but for this Act have belonged to or been vested in the Commissioners shall continue vested or vest in the Commissioners as a body corporate under this Act subject to all debts liabilities and obligations affecting the same and no action suit prosecution or other proceeding whatsoever commenced on or before the passing of this Act in respect of the powers and duties of the Commissioners shall abate or be discontinued or prejudicially affected by the incorporation of the Commissioners under this Act and all penalties by reason of any offence against the provisions of the Acts of 1850 and 1852 on or before the passing of this Act may be sued for by the Commissioners and all offences against the provisions of the said Acts

may be prosecuted by the Commissioners in such or the like manner to all intents and purposes as the same might have been sued for if the Commissioners had not been so incorporated.

Extension of limits of Acts.

6. The limits of the Acts are hereby extended to and shall comprise and include the parliamentary burgh of Dumfries the burghs of Dumfries and Maxwelltown administered under the Burgh Police (Scotland) Act 1892 and the parishes of Lochrutton Terregles and Troqueer in the stewartry of Kirkcudbright and of Dumfries in the county of Dumfries and the limits of the Acts for the compulsory supply of water are hereby extended to and shall comprise and include the said parliamentary burgh of Dumfries and the burghs of Dumfries and Maxwelltown administered under the said Police Act of 1892 which are herein-after called the limits of compulsory supply and the provisions of the Acts shall apply to the said extended limits as fully and effectually as such provisions apply to the limits defined by the Act of 1850 Provided that in any extension of the boundaries of the said burghs under the provisions of the said Burgh Police Act the sheriff may if he thinks fit extend the limits of compulsory supply to such extended boundaries.

Qualification of Commissioners.

7. Every person rated under the Acts either for the domestic water rate or for the public water rate in respect of any lands or heritages within the limits of compulsory supply and who shall have paid all rates due and payable by him at and preceding the election and no other person shall be qualified to be elected a Commissioner.

Qualification of electors.

8. Every person registered as a parliamentary elector for the parliamentary burgh of Dumfries and every person registered and entitled to vote in the election of town councillors for the municipal burghs of Dumfries and Maxwelltown and every person registered and entitled to vote in the election of parish councillors in that part of the parliamentary burgh of Dumfries beyond the royalty shall be entitled to vote in the election of Commissioners from the ratepayers and no person shall be entitled to give more than one vote for each vacancy in the Commissioners to be elected from the ratepayers at each annual election Provided that exemption from or failure to pay the domestic water rate or the public water rate authorised by the Acts where such rate is due and payable by persons so registered shall be a disqualification from voting at such election And it shall be the duty of the clerk to the Commissioners one week before the time fixed for the nomination of candidates for such election to prepare a list of electors who have failed to make payment of such rates and to transmit a copy of

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such list forthwith to the returning officer and any votes tendered by any elector named in such list shall at such election be disallowed unless the elector verifies prior to the close of the poll his right to vote by the production of a receipt duly signed and dated prior to the date of such election And the presiding officer at each polling station shall be the judge of the qualification of every such person and his decision thereon shall be final.

Election of Commissioners from ratepayers and nomination of candidates for election.

9. The prescribed time for the Commissioners elected from the ratepayers going out of office by rotation shall be the second Tuesday of November in every year and on the said day the electors duly qualified as provided by the immediately preceding section shall elect two persons duly qualified under this Act to be elected Commissioners and each of such persons shall be nominated by two and his nomination assented to by five of such qualified electors and consented to by the nominee all in terms as nearly as may be of Schedule IX. annexed to the Burgh Police (Scotland) Act 1892 and the notices in connexion with the election and the nomination of candidates shall be made and the annual election of Commissioners and the ascertainment and declaration of the result of such election shall be conducted as nearly as the circumstances will permit in the manner provided with respect to the nomination and the election of town councillors in the royal burghs of Scotland under the Royal Burghs (Scotland) Act 1833 the Municipal Elections (Scotland) Act 1868 the Municipal Elections Amendment (Scotland) Act 1870 and the Ballot Act 1872 and by sections 39 40 and 41 of the Burgh Police (Scotland) Act 1892 and Schedules IX. and X. annexed to that Act In case of an equality in the number of votes for any two or more such persons the returning officer shall if necessary to prevent an excess in the number of Commissioners decide by lot which of such persons shall be elected Provided that in all such elections the chairman of the Commissioners or any one of the Commissioners to be appointed by him or failing him by the sheriff on the application of any two of the Commissioners or of the clerk to the Commissioners shall act as returning officer and the clerk to the Commissioners shall in all respects occupy the place and perform the duties of the town clerk under the above-mentioned Acts in so far as necessary to carry the provisions of the Acts into effect and the whole expense of and incident to the elections under the Acts shall be paid by the Commissioners out of the moneys levied by them under the Acts.

Returning officer to appoint presiding

10. The returning officer for the time being shall appoint a person qualified to act as presiding officer at elections of town councillors in the royal burghs of Scotland to act as presiding

officer at each polling station in the election of Commissioners from the ratepayers under the Acts and shall fix the place of election and the polling station or stations which he may consider necessary notice of which shall be given in the intimation to be made of the annual election of Commissioners. officers at elections.

11. If any of the Commissioners die or resign or be disqualified or cease to be a Commissioner from any other cause than that of going out of office by rotation the remaining Commissioners may if they think fit elect another Commissioner in his place from the town council of Dumfries or Maxwelltown or from the ratepayers as the case may be and the Commissioner so elected shall continue in office only until the next ensuing annual election and at the said election the town council or the electors from the ratepayers as the case may be shall elect a Commissioner to fill the vacancy for the period during which the Commissioner originally elected would have been entitled to continue in office at the same time and in the same manner as the Commissioners going out of office by rotation are elected and in the case of an election from the ratepayers the successful candidate receiving the smallest number of votes shall be held to be the person elected to fill the said vacancy for the said period and in the case of no contest or of an equality of votes the Commissioners shall determine which candidate is to be held to be such person. Mode of supplying occasional vacancies.

12. The Commissioners shall hold their annual meeting on the third Tuesday of July in each year and all meetings of the Commissioners may be held in the town hall of Dumfries or at any other place the Commissioners may fix Provided that in the year one thousand eight hundred and ninety-seven the annual meeting shall be held on the third Tuesday in October. Time of annual meeting of Commissioners.

13. Subject to the provisions of the Acts the Commissioners may in connexion with the works constructed by them in pursuance of the Act of 1850 make lay down maintain use extend alter renew relay replace and enlarge embankments dams weirs channels sluices drains culverts cuts accesses filter beds filtering and aerating apparatus tanks cisterns meters main and distributing pipes houses buildings and other works and conveniences from time to time in use or required for preventing the pollution and for purifying conveying and distributing water or otherwise for the purposes of the undertaking and all such works shall form part of the undertaking Provided always that the powers of this section shall be exercised only on lands or property belonging to the Commissioners or which may be acquired by them by agreement or over Power to maintain and extend existing works.

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which they have easements or which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open or break up for such purposes.

Pressure.

14. The water to be supplied by the Commissioners need not be supplied in any case at a level above or at a greater pressure than can be afforded by gravitation from the pure water tank or tanks from which the supply is taken.

Regulations for preventing waste of water.

15. The Commissioners may from time to time make regulations prescribing the size nature strength materials mode of arrangement and repairs of the apparatus to be used by consumers of water and prohibiting any arrangement and use of any apparatus which in their judgment may tend to any waste misuse undue consumption or contamination of the water supplied by the Commissioners and may impose such penalties for breach of such regulations not exceeding forty shillings for each offence as they may consider expedient and they may enter on any premises supplied by them with water for the purpose of ascertaining if such regulations have been or are being observed Provided always that any such regulations shall be operative only within the limits of compulsory supply and within parts in which constant supply is given and shall not be operative until the same shall have been approved of and confirmed by the Sheriff of Dumfries and Galloway on application to him for that purpose by the Commissioners and published by advertising in one or more newspapers circulating within the limits of compulsory supply that copies thereof may be had on application at the office of the Commissioners.

Commissioners may repair apparatus on failure of the owner or occupier.

16. If any apparatus shall be out of order the owner or occupier of the house or premises in or to which such apparatus is placed or attached shall be bound to repair and make good the same and if he shall fail to do so within twenty-four hours after notice in writing shall be delivered at the said house or premises the Commissioners or any person acting under their authority may enter upon such house or premises and repair renew and make watertight all such apparatus and shall be entitled to recover from the owner or occupier so failing the cost of such repair or renewal together with any penalty which may have been incurred and for the purposes of this and the preceding section and of the next succeeding section the word apparatus means and includes pipe cistern bath water-closet ball cock stop cock valve and other articles used in the supply or storing of water in houses or premises or in connexion therewith Provided that in the event of the cost of

such repair and renewal being paid by the occupier of such house or premises he shall be entitled to recover such cost from the owner thereof or to deduct the same from his rent unless otherwise provided for by the conditions of his occupancy.

Tubes or hose not to be affixed without consent of the Commissioners.

17. It shall not be lawful for the owner or occupier of any house or premises supplied with water by the Commissioners without their written consent to affix or permit or suffer to be affixed any tube or hose to any of the mains or pipes of the Commissioners or to any service pipe or apparatus of such or any other owner or occupier for the purpose of washing horses carriages or other vehicles windows houses or buildings or for watering gardens or washing pavements or footpaths of roads or for any other purpose and any person who contravenes this enactment shall be guilty of an offence and shall for every such offence forfeit and pay to the Commissioners a penalty not exceeding forty shillings.

Supply of water for domestic use within compulsory limits.

18. The Commissioners shall cause pipes to be laid so far as not already laid and water to be brought through all streets and roads or portions of streets or roads 'along which houses are built within the limits of compulsory supply and shall at the request of the owner or occupier of any house or part of a house occupied as a separate dwelling in any such street or road as aforesaid furnish to such person by means of service pipes and other necessary apparatus to be provided laid down and maintained by and at the cost of such person unless otherwise agreed on a sufficient supply of water for domestic purposes in any such dwelling-house (including a supply for private water-closets and private fixed baths in any such dwelling-house) including the office houses and other pertinents thereof Provided that no person shall be entitled to demand such supply of water or to require the Commissioners to lay down service pipes or fire plugs unless some pipe of the Commissioners shall have been laid within one hundred feet of the premises in respect of which such supply of water or pipes or fire plugs is demanded or in case of tenements situated in a private close or place unless some pipe of the Commissioners shall have been laid within one hundred feet of the entrance to such close or place or unless the Commissioners shall have become bound by virtue of a requisition and agreement made and executed in the manner and to the extent required by the Waterworks Clauses Act 1847 to cause pipes to be laid down within the said distance of one hundred feet of such premises.

Owners to provide and maintain service pipes.

19. For the purpose of providing for the better distribution of the water supply among the inhabitants it shall be lawful for the Commissioners to require the owner of any dwelling-house or

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tenement of dwelling-houses not properly supplied with water in any street or road within the limits of compulsory supply in which the pipes of the Commissioners are laid to take a supply of water for such dwelling-house or tenement by connecting a service pipe with the main pipe of the Commissioners in any such street or road (such connection to be made by the Commissioners at the expense of the owner) and in the event of refusal or delay on the part of such owner to comply with such requisition within one month from the date on which such requisition is given it shall be lawful for the Commissioners after twenty-four hours' notice in writing to enter such dwelling-house or tenement and premises connected therewith and to provide and lay down such service pipe and connect the same with the main pipe of the Commissioners and to recover the expense thereof from such owner in the same manner as rates rents and charges are recoverable by the Commissioners under this Act Provided always that in the case of houses not exceeding four pounds of yearly rent or value such owner shall not be required to introduce water into each house if such means of supply has been provided for each tenement of houses as the Commissioners may deem necessary Provided also that in case of any question or difference arising between the Commissioners and such owner with respect to the necessity for such supply being provided for any such house or tenement the same shall be determined and fixed by the sheriff on summary application by either of the parties and the decision of the sheriff shall be final and not subject to appeal or review in any court or by any process whatsoever.

Public fountains and stand pipes.

20. The Commissioners may from time to time with the consent of the local authority having jurisdiction in respect thereof erect and maintain within the limits of compulsory supply such fountains drinking troughs or stand pipes as they think convenient and keep them supplied with water and every person who takes water from any of such fountains troughs or stand pipes for any purpose other than domestic or for drinking shall for every such offence be liable to a penalty not exceeding five pounds.

Supply of water by measure.

21. The Commissioners may agree with any person for a supply of water by measure and may require any person supplied with water for other than domestic purposes to take and pay for such supply by measure and in both cases a meter for ascertaining the quantity consumed shall (unless otherwise agreed on) be provided by the Commissioners at a reasonable rent to be fixed by them and the register of such meter shall be primâ facie evidence of the quantity of water consumed.

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Supply beyond compulsory limits.

22. The Commissioners may contract with any corporation county council district committee or other local authority or with any company or person for the supply of water in bulk or otherwise for domestic use or for other than domestic use by the Commissioners beyond the limits of compulsory supply but within the limits of the Acts and such supply may be furnished at such rates for such periods of time upon such terms and conditions subject to such regulations and by measure or otherwise as shall be agreed upon Provided always that such supply shall not prejudicially affect or restrict the supply of water for domestic purposes from time to time required within the limits of compulsory supply Provided further that such supply of water by the Commissioners shall be subject to the consent of the county council district committee or other local authority having jurisdiction with respect to the supply of water within the district where the supply is given or of any company supplying water under statutory authority within such district.

Table of rates and charges.

23. The Commissioners may from time to time make up a table of rates and charges for the supply of water for other than domestic use within the limits of the Acts and for the supply of water for domestic use beyond the limits of compulsory supply but within the limits of the Acts and may from time to time frame regulations with reference to such supply which table of rates and regulations shall be published by advertising in one or more newspapers circulating within the limits of compulsory supply on or before the first day of April annually that copies thereof may be had on application at the office of the Commissioners and after such publication such rates and charges and regulations shall be held in the absence of any special agreement to be the terms on which supply is furnished by the Commissioners for such purposes for the year beginning at the term of Whitsunday after such publication and thereafter until altered and all local authorities companies or persons so supplied shall be held as acquiescing in the rates and charges specified in such table as the rates and charges agreed upon between the Commissioners and such local authorities companies or persons for such supply of water.

Rates.

24. In order to provide the amount of money estimated to be necessary in each year under the provisions of the Acts to carry the Acts into execution the Commissioners may and they are hereby authorised to assess and levy within the limits of compulsory supply rates to be called respectively the domestic water rate and the public water rate upon the persons and property and subject to the limitations in this Act specified which rates shall be assessed in advance for the period from the term of Whitsunday in each year

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to the term of Whitsunday in the year following and shall be payable on such day in each year as the Commissioners shall appoint.

Domestic water rate.

25. The domestic water rate shall be levied on the occupiers of all dwelling-houses according to the annual value thereof appearing in the valuation roll for the time being in force but so as not to exceed sixpence in each pound of such value Provided that the amount to be paid in respect of any dwelling-house shall not be less than one shilling in any year and provided also that no person shall be liable to be assessed in respect of any dwelling-house unless some pipe of the Commissioners shall have been laid within one hundred feet of the outer wall thereof or in the case of persons occupying dwelling-houses situated in a private close or place unless some pipe of the Commissioners shall have been laid within one hundred feet of the entrance to such close or place or the nearest part thereof.

Owners in certain cases to pay rates instead of occupiers.

26. The owners of all houses or parts of houses occupied as separate dwellings let at a rent not exceeding four pounds per annum and of all houses or parts of houses occupied as separate dwellings let for a shorter period of occupation than one year or for rents payable or paid quarterly or at more frequent periods shall be liable in payment of the domestic water rate instead of the occupiers thereof and the person receiving the rents of any such dwelling-house from the occupier thereof on his own account or as agent or receiver for any person interested therein shall be deemed the owner of such dwelling-house Provided that it shall be lawful for the assessor of the Commissioners to require the owner or reputed owner or agent or receiver of the rents or the tenant or occupier of any dwelling-house for a written statement of the period of occupation thereof and whether the rent thereof is payable or paid quarterly or at more frequent periods and if any such person shall without reasonable excuse fail to furnish such written statement within fourteen days after he shall be called upon in writing so to do he shall be liable to a penalty not exceeding five pounds and if any such person shall present or cause to be presented any false statement as to such particulars he knowing the same to be false he shall be liable to a penalty not exceeding ten pounds Provided further that the Commissioners shall allow to such owners who shall pay the said domestic water rate an abatement of ten per centum on the amount of such rate Provided also that such owners shall in the absence of contrary agreement be entitled to recover from the occupiers of such houses the amount of such rate payable for their respective possessions.

Public water rate.

27. The public water rate shall be levied on the owners of all lands and heritages within the limits of compulsory supply according to the annual value thereof appearing in the valuation roll for the time being in force but so as not to exceed twopence in each pound of such value and such public water rate may be levied and collected by the Commissioners from the occupiers of such lands and heritages and any occupier paying the same shall be entitled to deduct the same from his rent Provided always that in assessing and levying such public rate the annual value of the following lands or heritages shall be held to be one-fourth of the annual value thereof entered in the said valuation roll namely (1) all lands and heritages used exclusively as a railway or tramway for public conveyance excepting the stations depôts and other buildings which shall be assessable to the same extent as other lands and heritages (2) all bridges not being private property (3) all underground gas pipes and (4) all woodland arable meadow or pasture ground or other ground used for nurseries market gardens or for agricultural purposes Provided also that the Commissioners may discontinue levying such public water rate in any year and resume levying the same again from time to time as they may find it desirable or necessary.

Statement and notice and form and amendment of domestic water rate.

28. The provisions of sections 32 33 34 and 35 of the Act of 1850 as to the deposit of a statement of proposed rate and the notice to be given thereof and as to the form of rate and the inspection thereof by the ratepayers and as to the amendment of rate shall apply to the domestic water rate as well as to the public water rate and the schedule of form of rate annexed to the said Act shall be amended accordingly.

Unoccupied premises.

29. The provision of section 39 of the Act of 1850 in reference to unoccupied premises shall apply to the public water rate leviable from owners and also to the domestic water rate leviable from occupiers and owners under the Acts.

Joint collection of rates.

30. The Commissioners and any parish councils or town councils or burgh commissioners within the limits of compulsory supply may from time to time join in making arrangements with regard to the collection of rates leviable by them or any of them as shall seem to them to be most effective and economical in terms of section 51 (3) of the Local Government (Scotland) Act 1894.

Recovery of rates rents and charges.

31. If any person shall refuse or neglect to pay any rates rents or charges imposed upon him or for which he is liable under the provisions of the Acts after such rates rents or charges shall be due and demanded by written notice of assessment left at the place of

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abode or place of business of such person or on the premises assessed or if any person shall quit or be about to quit any house or premises before he has paid all such rates rents or charges due by him and fails to pay the same on demand it shall be lawful for the collector on the expiration of the time specified in such notice to recover any arrears of such rates rents or charges due by such person either according to the ordinary procedure before any competent court or by obtaining from the sheriff a summary warrant to recover such arrears with the addition of ten per centum thereon and the proceedings in the application for issuing and putting in force such warrant shall be as nearly as may be in the forms and subject to the appeal and other provisions mentioned in sections 353 to 357 and Schedule VIII. of the Burgh Police (Scotland) Act 1892 with regard to the recovery of assessments under that Act which sections and schedule subject to the necessary variations are hereby incorporated with and form part of this Act.

Rates rents and charges preferable in case of bankruptcy.

32. All rates rents and charges imposed under the Acts shall in the case of bankruptcy insolvency or liquidation be a preferable claim to all debts of a private nature due by the person or persons rated or charged or by the person or persons liable in payment of such rates rents and charges.

Accounts to be balanced and audited.

33. The Commissioners shall cause their accounts to be balanced to the fifteenth day of May in each year and to be audited by an auditor to be annually appointed by them and such auditor shall either make a special report on such accounts or simply confirm the same and such report or confirmation shall be read at the meeting of the Commissioners to be held in every year for the examination and settlement of such accounts and the Commissioners shall pay to such auditor reasonable remuneration for his trouble and in case the office of auditor shall become vacant by death or otherwise before such accounts shall have been audited the Commissioners shall from time to time appoint an auditor to supply such vacancy Provided that in the year one thousand eight hundred and ninety-seven the accounts of the Commissioners shall be balanced to the fifteenth day of September.

Prosecution of offences.

34. All offences against any of the provisions of the Acts or any Act incorporated therewith or of any byelaws or regulations made in pursuance thereof may be prosecuted and all penalties and forfeitures in respect of such offences may be recovered by and in the name of the clerk to the Commissioners for the time being before the Sheriff of Dumfries and Galloway under the provisions of the Summary Jurisdiction (Scotland) Acts 1864 and 1881 and all such

penalties and forfeitures (other than penalties imposed upon the Commissioners) shall be paid over to the Commissioners for the purposes of the Acts. A.D. 1897.

Costs of Act.

35. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Commissioners out of the moneys belonging to or the rates and revenues leviable or receivable by them under the Acts.

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