

wealth of Australia (hereinafter referred to as "the company", which expression shall include its permitted assigns), of the other part:

Whereas, by an agreement (hereinafter referred to as "the 1963 agreement") made the 15th day of August 1963 between Her Majesty the Queen, in respect of the Government of New Zealand, acting by and through the Minister of Electricity (hereinafter referred to as "the Crown") of the one part, and the company of the other part, which agreement was validated by and is set out in the Schedule to the Manapouri - Te Anau Development Act 1963, it was agreed *inter alia* that the Crown should, if so required by the company, and subject to certain terms and conditions as therein set forth, make available to the company all electrical power within the power potential of the water resources other than two Crown blocks (both those terms being as defined in the 1963 agreement);

And whereas the Crown desires to take temporarily, not only from the said two Crown blocks, but also from one decimal eight 100-megawatt blocks (as defined in the 1963 agreement) up to a total of 2,600,000,000 kilowatt hours of electrical energy per year, and pro rata for part of a year, so that it may defer construction of other hydro-electric power stations in New Zealand and for that purpose to construct as soon as practicable, and within the limits imposed under section 4 of the said Act, all works requisite to enable the maximum use of the water resources for the generation of electrical power;

And whereas it is considered that it is advisable and for the benefit of both the Crown and the company that the provisions of the 1963 agreement should be varied in certain respects as hereinafter set forth in order to permit the best use to be made of the water resources for the generation of electrical power;

And whereas clause 22 of the 1963 agreement provides that, with the approval of the Governor-General, by Order in Council, the 1963 agreement may be varied pursuant to agreement between the Minister of Electricity and the company:

Now, therefore, it is hereby agreed as follows:

1. Clause 1 of the 1963 agreement shall be varied by omitting therefrom the definitions of "the power potential of the water resources" and "undeveloped portion of the power potential of the water resources", and by substituting the following definitions:

"the power potential of the water resources" means such electrical power, calculated on the basis that it includes two Crown blocks, and that apart therefrom it comprises 100-megawatt blocks and a fraction of a 100-megawatt block, as can be generated on the basis of the maximum usage of the long-term regulated flow of the water resources by generating units at the power station at Lake Manapouri, having a total capacity of 700 megawatts, or by generating units from time to time installed at the said power station, if those last-mentioned generating units have a total capacity of more than 700 megawatts:

"long-term regulated flow of the water resources" means the maximum average flow which can be obtained over the long term from the water resources, regulated in accordance with good engineering and hydrological practices, within the limits imposed under section 4 of the Manapouri - Te Anau Development Act 1963; provided however that, until the works known as the Te Anau control structure and the Mararoa dam have been completed, "long-term regulated flow of the water resources" means the maximum average flow which can be obtained as aforesaid, but without the provision of the said works:

"Stage I" means the period from the 31st day of January 1963 until the date on which the Crown is first obliged to make available electrical power to the company pursuant to a notice given by the company under paragraph (e) of clause 5 hereof:

"Stage II" means the period from the conclusion of Stage I to the expiration or sooner determination of this agreement:

"surplus electrical power" means electrical power which, from time to time, can be generated in accordance with good electrical practices at the power station at Lake Manapouri in excess of the power potential of the water resources."

2. Clause 4 of the 1963 agreement shall be varied by:

(a) inserting the letter "(a)" immediately after the figure "4" at the commencement of the said clause 4;

(b) adding at the end of the said clause 4 the following paragraphs—

"(b) The Crown will instal as soon as possible in the power station at Lake Manapouri seven generating units, having a total capacity of at least 700 megawatts. The first four generating units shall each have a capacity of 100 megawatts. Subject to confirmation of present engineering studies, which indicate that it is feasible for each of the remaining three generating units to have a greater capacity than 100 megawatts, the Crown shall instal those three generating units with the maximum feasible capacity.

"(c) If the company gives to the Crown a notice in accordance with paragraph (c) of clause 5 hereof, then the Crown will construct the works known as the Te Anau control structure and the Mararoa dam and all works ancillary thereto as soon as feasible, but in any case so that they shall be completed not later than the 1st day of January 1976, or such later date as the company may agree."

3. Clause 5 of the 1963 agreement shall be varied by omitting paragraphs (c) to (g), both inclusive, and by substituting the following paragraphs:

"(c) On or before the 31st day of December 1968, the company may give to the Crown notice requiring the supply to the company of a number of 100-megawatt blocks, being not less than one nor more than two decimal four (as the company may decide) on and from the date specified in the notice, but not earlier than 30 months after the date the notice is given.

"(d) After giving the notice referred to in paragraph (c) of this clause, the company may give the Crown from time to time a notice requiring the supply to the company of the number of 100-megawatt blocks stated in the notice on and from the date specified in the notice (which date shall not be before the date on which the Crown is obliged to make available electrical power to the company under the notice given by the company pursuant to the said paragraph (c)); provided always that the company shall not give a notice under this paragraph which would require the Crown to make available to the company pursuant to that notice, and to notices previously given under this paragraph and under the said paragraph (c), more than a total of two decimal four 100-megawatt blocks before the 1st day of January 1973, or more than a total of three 100-megawatt blocks.

"(e) After the company has given notices under paragraphs (c) and (d) of this clause, requiring the Crown to supply it with a total of three 100-megawatt blocks, the company may give to the Crown from time to time a notice requiring the supply to the company on and from the date specified in the notice (which date shall not be before the last date on which the Crown is obliged to commence to make available electrical power to the company under notices given by the company pursuant to paragraph (d) of this clause) of the number of 100-megawatt blocks stated in the notice, but so that the total number of 100-megawatt blocks required by all notices given under this paragraph shall not exceed one decimal eight 100-megawatt blocks; provided that—

"(i) a notice under this paragraph shall not be given before the 1st day of April 1973;

"(ii) the date specified in a notice given under this paragraph, on and from which electrical power is required by the company, shall not, for notices given before the 1st day of October 1976, be earlier than 42 months after the date the notice is given, and for notices given on or after the 1st day of October 1976, be earlier than 30 months after the date the notice is given.

"(f) In this paragraph 'excess continuous electrical power' means—

"(i) in respect of the period prior to the completion of the said Te Anau control structure and Mararoa dam, the number of 100-megawatt blocks by which the power potential of the water resources is determined to exceed two Crown blocks plus four decimal two 100-megawatt blocks; and

"(ii) in respect of the period after the completion of the said Te Anau control structure and Mararoa dam, the number of 100-megawatt blocks by which the power potential of the water resources is determined to exceed two Crown blocks plus four decimal eight 100-megawatt blocks.

"After the date on which the Crown is first obliged to make available electrical power to the company under the notice given by the company under paragraph (c) of this clause, the company may from time to time give to the Crown a notice (which shall state that it is given under this paragraph) requiring the supply to the company of the excess continuous electrical power or any part thereof as stated in the notice (to the extent not required under prior notices pursuant to this paragraph) on and from the date specified in the notice; provided that, if at any time any estimate or assumption which was made to determine the excess continuous electrical power is shown to have been incorrect, then the excess continuous electrical power shall be redetermined and the quantity of continuous electrical power required under notices given by the company under this paragraph shall be reduced by the quantity (if any) by which it exceeds the excess continuous electrical power so redetermined. In making the determination and redetermination as aforesaid the parties shall take into account their desire to make the maximum use of the water resources to meet the requirements of both of them under this agreement.

"(g) After the 30th day of June 1986, or such earlier date as the Minister may agree, if the total electrical power required by the company under notices given by it under the foregoing provisions of this clause is at least equal to the power potential of the water resources less two Crown blocks, then the company may at any time or times request the Crown to supply the company with electrical power of a stated wattage (either continuously or at a load factor stated in that request) not exceeding the equivalent of two Crown blocks, less the electrical power (if any) which the company has required the Crown to supply under notices given by the company as hereafter provided in this paragraph. The Crown shall notify the company as soon as possible whether or not it will make available all or any part of the two Crown blocks and, if so, the wattage of the electrical power and the load factor at which, and the date from which, it would be available. At any time within six months after the company is so notified that any electrical power is available as aforesaid it shall have the right to give to the Crown notice requiring the supply to the company of electrical power of the wattage and at the load factor so notified, from the