

32

KENYA  
52924

52924  
REC'D  
28 OCT 20

NAIROBI ELECTRIC LIGHT COY

TRANSFER OF UNDERTAKING

1920

37th ct

Last previous Paper

11/9/34818

For reasons stated do not feel justified in proposed capital expenditure and suggests discussion on the matter. States Mr Udall has suggested sale to him of the whole of Coy's undertaking and requests views at an early date

Mr. Udall  
Light Coy

to Gov. Sec. Com. 29 Dec '20 ✓  
to Gov. Sec. Com. 29 Dec '20 ✓  
to Gov. Sec. Com. 13 Dec '20 60/60259 ✓

In view of our past trials we may perhaps allow ourselves a smile before taking steps to get the rest of the difficulties as follows.

The Company's ~~main~~ <sup>idea</sup> is that they are not liable to supply more electricity than they can get out of the water power provided by the Govt. ~~and~~ <sup>and</sup> ~~the~~ <sup>the</sup> ~~Government~~ <sup>Government</sup> in itself and ~~the~~ <sup>the</sup> ~~work~~ <sup>work</sup> so long as they have not utilised the whole of that water power. In the ~~event~~ <sup>event</sup>, at least, we can

Last subsequent Paper

60259

let it pass.  
This suggestion that we should support a

*I safeguard them from loss amounts  
to an intention to defraud persons  
related to of "the Commission, the whole  
Commission, but acting by the Commission"  
and we should first proceed with  
their own suggestion of a transfer  
to Mr. Udall. He is a man of  
status, but may have unimpaired  
teaching*

*of any kind will be  
under the law*

*A.B.  
28/10/20*

*Oct 28 10 20*

*to J.R.  
29/10/20*

THE NAIROBI ELECTRIC POWER & LIGHTING COMPANY, LTD

TELEGRAPHIC ADDRESSES:  
"ELECTRO. FEN. LONDON."  
"ELECTRIC. NAIROBI"  
PHONE NO. 4853 AVENUE.  
P.O. CODE-5TH EDITION.

50, MARK LANE 52924

LONDON, E.C. 3

27th October, 1920.  
Reg. 2806120

The Under Secretary of State,  
Colonial Office,  
London, S.W.1.

Sir,

We have been considering the statement made by Mr. McLain, the Electrical Engineer to the East African Government at the Meeting at the Colonial Office on the 19th January last to the effect that the Protectorate Government would not exercise their option under Paragraph 22 of the Company's Concession to purchase the Company's undertaking on the expiration, in 1931, of the term granted to the Company and that the Nairobi Municipality is also not likely to become the purchaser.

In view of the comparatively short term that the Concession still has to run the Company is therefore obliged to consider its financial position in regard both to past and prospective capital expenditure on plant.

As you are aware the Company at present has a power plant at Ruiru Falls capable, when the river is at a sufficient level, of giving an output of 360 Kilowatts. In addition the Company has at Parklands Nairobi a steam plant of the same capacity. This latter plant was installed as a stop-gap pending the substitution of the falls on the Thika River for the falls which were available under the terms of the Company's Concession.

It will be recalled that we expressed the view in the past that at the time the agreement for the substitution of the Thika Falls would come into force, the plant could not be erected for some time and that we therefore thought it

desirable in the public interest temporarily to erect a steam installation as a stand-by in the case of a shortage of water in the Ruiru River.

This course we took, although we realised as pointed out in our letter of 17th April 1914 that under our Concession we were under no contractual obligation to introduce any source of power supply other than such as would be obtained from the Falls provided by Government.

At that time we expected, although it now appears that our expectation is not likely to be realised, that at the end of our Concession the Government would in fact exercise their option and take over all existing plant including the steam plant which we had voluntarily erected.

But as the matter now stands in view of the intimation from Mr. McBlain already referred to the position is entirely different. We should be doing wrong if we incurred capital expenditure outside the scope of our legal obligation with the residue of a term still to run substantially less than the life of that plant and without any prospect of its being bought out at the end of the Concession. Indeed, we are advised that it will be impossible to raise money on such an evanescent security.

We should have liked both on public and on business grounds to have made a further steam installation forthwith but for the reasons stated by Board do not feel justified in so doing under the existing circumstances.

In view of the increase in demand for current since the Meeting at the Colonial Office in January last should there be a recurrence of the drought next March, affecting the water plant which is obligatory on us under our Concession, and should there be, at the same time, an accidental break down of the steam plant voluntarily installed, yet it is true that there would be no "default" on our part within the meaning of the Concession. None the less the

cessation of current would be very inconvenient to the Township of Nairobi - a contingency which we should contemplate with the greatest regret.

We write this letter with a view to suggesting a friendly discussion in the hope that some suggestion may be made by the Secretary of State towards safeguarding the financial position in regard to the maintenance of our existing steam plant and installation of future steam plant.

We have recently been approached by our local Manager Mr. Udall with a view to the sale to him of the whole of the Company's undertaking and we understand that he has made a provisional application for a license under the Electric Power Ordinance 1919 and notice of Mr. Udall's application appears in the Official Gazette of September 15th 1920.

It is stated in the notice that power will be asked for in the license to authorise the transfer of the undertaking within 6 months to a limited liability company representing local interests.

We think it possible that the Local Government has a preference for the whole of the supply of electricity being governed by the new ordinance although as a result of the interview of January last at the Colonial Office, they have acquiesced in the decision of the Secretary of State that the Company's Concession should remain in full operation and should not be affected by the Electric Power Ordinance 1919.

This proposal may possibly provide a solution of the difficulties arising under the existing situation more particularly as it would have the effect of terminating the Company's existing Concession and substituting a license under the new Ordinance. For these reasons alone the proposal of Mr. Udall may be acceptable both to the Secretary of State and to the local Government. In that event my Company would be glad to do anything in its power

to facilitate such an arrangement. We presume that in the event of such an arrangement maturing no difficulty will arise in obtaining formal consent under Paragraph 18 of the Company's Concession to the assignment of the benefit thereof to Mr. Udall or to such Company as is contemplated by his notice for the purpose of its being superseded by a new license.

As it appears from the published notice that Mr. Udall is applying for a license on November 15th, we should be grateful if you could let us have the views of the Secretary of State in good time in order that any necessary cables from ourselves and also from the Secretary of State to the Protectorate Government if he approves may be despatched before that date.

I have the honour to be, Sir,

Your obedient servant,

For and on behalf of  
The Nairobi Electric Power & Lighting Co., Ltd.,

*S. A. Hight*

Secretary.

hot Kenya  
52914

Inde 29<sup>th</sup> Oct sent 1.10/100  
short  
white

29 October 1910

my despatch of 14<sup>th</sup> Aug

DRAFT. Code tel

1181 Nairobi Electric

Governor  
Nairobi  
MINUTE.

52914

power company state  
policy  
not justified in

- Mr. Rosemary 28/10/10
- Mr. Burke 28/10
- Mr.
- Mr. Grindle
- Sir H. Lambert
- + Sir H. Reid 29
- Sir G. Fiddes
- Col. Amery
- Lord Milner

incurring capital  
expenditure for short

term remaining and  
partly

ask for permission to incur  
unnecessary  
expense than interest

colostrium  
in concession to reduce  
a company to be formed

subsidy of public works  
by loan to purchase

of the being re-organized

by loan a company

2 aft.

MS. 54224

29 Oct 1920

Sir,

I am in touch with the  
rest of you letter of  
the 17<sup>th</sup> of Oct. and to

inform you that he  
will be glad to arrange

for discussion of the  
position of the

Minist. Electric Power  
and lighting Co., but

that in the first place  
he has considered it

desirable to communi-  
cate to the Gov. of

Kenya by telegraph

Your suggestion that

the Commission should

DRAFT.

The Secretary  
Electric  
Minist. Power &  
Lighting Co. Ltd.  
MINUTE.

Mr. Hadoway 28/10/20

Mr. Budge 28/10

Mr.

Mr. Grindle

Sir H. Lambert

Sir H. Beach

Sir G. Kiddle

Col. Amery

Lord Alton

29  
8

Done 19/12/20

for review

2025

should be transferred to  
the United States Company  
to be found by him,  
with a view to his being  
satisfied by a license  
under the Statute

Power of 1819.

2. The Govt has been  
requested to furnish  
his views on your  
application as soon as  
possible.