

to use or damage the lands or property of others necessary to the construction, maintenance, or operation of any dam, reservoir, diversion structure, or the works appurtenant or accessory thereto, in conjunction with any improvement which in the judgment of the commission is desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: *Provided*, That United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000<sup>1</sup> *Provided further*, That no licensee may use the right of eminent domain under this section to acquire any lands or other property that, prior to October 24, 1992, were owned by a State or political subdivision thereof and were part of or included within any public park, recreation area or wildlife refuge established under State or local law. In the case of lands or other property that are owned by a State or political subdivision and are part of or included within a public park, recreation area or wildlife refuge established under State or local law on or after October 24, 1992, no licensee may use the right of eminent domain under this section to acquire such lands or property unless there has been a public hearing held in the affected community and a finding by the Commission, after due consideration of expressed public views and the recommendations of the State or political subdivision that owns the lands or property, that the license will not interfere or be inconsistent with the purposes for which such lands or property are owned.

(June 10, 1920, ch. 285, pt. I, §21, 41 Stat. 1074; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, §212, 49 Stat. 847; Pub. L. 102-486, title XVII, §1701(d), Oct. 24, 1992, 106 Stat. 3009.)

#### AMENDMENTS

1992—Pub. L. 102-486 substituted final proviso and sentence for period at end.

#### § 815. Contract to furnish power extending beyond period of license; obligations of new licensee

Whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public-service com-

mission, then upon the approval of the commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts.

(June 10, 1920, ch. 285, pt. I, §22, 41 Stat. 1074; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, §212, 49 Stat. 847.)

#### § 816. Preservation of rights vested prior to June 10, 1920

The provisions of this subchapter shall not be construed as affecting any permit or valid existing right-of-way granted prior to June 10, 1920, or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way or authority may apply for a license under this chapter, and upon such application the Commission may issue to any such applicant a license in accordance with the provisions of this subchapter and in such case the provisions of this chapter shall apply to such applicant as a licensee under this chapter: *Provided*, That when application is made for a license under this section for a project or projects already constructed the fair value of said project or projects determined as provided in this section, shall for the purposes of this subchapter and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing.

(June 10, 1920, ch. 285, pt. I, §23(a), 41 Stat. 1075; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§210, 212, 49 Stat. 846, 847.)

#### CODIFICATION

Section consists of subsec. (a) of section 23 of act June 10, 1920, as so designated by act Aug. 26, 1935. Subsec. (b) of section 23 of act June 10, 1920, is set out as section 817 of this title.

#### AMENDMENTS

1935—Act Aug. 26, 1935, §210, amended section generally, substituting “part” for “chapter” wherever appearing, substituting “heretofore” for “then”, and substituting the last sentence for “Such fair value may, in the discretion of the commission, be determined by mutual agreement between the commission and the applicant or, in case they cannot agree, jurisdiction is hereby conferred upon the district court of the United States in the district within which such project or projects may be located, upon the application of either party, to hear and determine the amount of such fair value.”

#### § 817. Projects not affecting navigable waters; necessity for Federal license, permit or right-of-way; unauthorized activities

(1) It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across,

<sup>1</sup> So in original. Probably should be followed by a colon.