

cent butter fat and not more than ten per cent by weight of milk solids, and must contain not less than thirty-five one-hundredths of one per cent of citric or tartaric acid or mixtures of said acids. Citric acid, tartaric acid, lactic acid, or mixtures of said acids may be used. All containers, packages, or wrappers used in connection with the sale of milk sherbet shall bear the words "Milk Sherbet", also the words "Maximum Butter Fat 3½ per cent", clearly and distinctly on each package, receptacle or container in which the article is offered for sale, sold or stored.

(10c) Ice, fruit ice, water ice is a frozen product made from fruit juice or juices, water and sugar, with or without natural fruit flavoring and may contain added harmless color, edible gelatine or harmless vegetable gum, citric acid, tartaric acid, lactic acid or mixtures of the same and shall conform in names to the fruit juice or juices or the natural flavoring used.

SECTION 3. This act shall take effect July 1, 1933.

Approved July 25, 1933.

No. 803, A.]

[Published July 28, 1933.

CHAPTER 465.

AN ACT to amend sections 4, 5 and 6 of chapter 335, laws of 1907, and to create section 6a of said chapter, authorizing the Wisconsin Valley Improvement company to issue bonds for certain purposes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Sections 4, 5 and 6 of chapter 335, laws of 1907 (as amended by chapter 514, laws of 1915) are amended to read: (Chapter 514, laws of 1915) Section 4. In case said Wisconsin Valley Improvement company shall improve any navigable tributary of the Wisconsin river not herein excepted or shall acquire the improvements or the control of the improvements of any river improvement company already operating on any such stream and shall so keep in repair and operate the works as to render the driving of logs and other floatables to the mouth of such tributary reasonably practicable and certain, it may charge and collect reasonable and uniform tolls upon all such logs, timber and other floatables driven or floated on said stream, and shall have all of the rights and remedies granted to river improvement companies by section 1777 of the Wisconsin statutes, and all amendments

thereof, including the right of lien therein provided for, and shall be charged with all the duties and obligations imposed upon such river improvement companies under like circumstances.

When said Wisconsin Valley Improvement company shall have created or acquired and maintained in successful operation water reservoirs in accordance with this act, of a capacity sufficient to store up in times of abundance and retain and discharge in times of scarcity two billion cubic feet of water that would not be so stored up and retained by nature it shall, subject to the supervision and control hereinafter provided for, be entitled to charge, collect and receive reasonable and uniform tolls from the owner or owners or lessee or lessees of each and every improved and operated water power located upon the Wisconsin river, or any tributaries thereof, below any said reservoirs benefited thereby, but not exceeding in the aggregate of all its revenues sufficient to pay all reasonable costs of operation and maintenance and a net annual return of seven per cent on cash capital actually paid in on stock subscriptions to the grantee *and on the par value of all negotiable bonds issued by the grantee*. Said tolls shall be semi-annually fixed, ascertained and determined by the * * * *public service* commission of Wisconsin on or about the first day of July and the first day of January of each year, for the six months' period preceding each of said dates. Said tolls shall be fixed in proportion to the benefits conferred by the reservoir system upon each of the improved and operated water powers aforesaid. It shall be the duty of the grantee to employ competent hydraulic engineers to be selected by the * * * *public service* commission of Wisconsin to assist in determining the tolls to be charged as aforesaid and the expense thereof shall be treated as a part of the cost of maintenance and operation of said works. If any such improved water power be operated by a lessee or lessees under lease or contract made prior to the enactment and publication of this act, then such lessee or lessees shall be chargeable with the payment of such tolls; otherwise the same shall be paid by the owner or owners of the water power. Each water power liable to tolls as above provided which shall be operated two months or more during any six months' toll period shall be subject to tolls for the whole of the same period; otherwise no tolls for that period shall be chargeable.

SECTION 5. On or before June 15th and December 15th of each year, said Wisconsin Valley Improvement company shall

lay before the * * * *public service* commission of Wisconsin a statement showing all expenditures made or necessary to be made for the next six months' period, next preceding July 1st and January 1st respectively of each year for maintenance and operation of such reservoir system, all capital stock of said company issued and *all negotiable bonds* then outstanding, the cash capital actually paid in, the storage capacity and location of each reservoir, and all reports and data obtained from engineers employed as provided in section four of this act and such other information and statements as the commission shall require, together with a recommendation of the amount of tolls necessary to pay such cost of maintenance and operation and a net return of seven per cent per annum on the capital invested *including the par value of the outstanding negotiable bonds*, and a recommendation as to the apportionment thereof against the owners or operators of improved powers in accordance with said section four. The * * * *public service* commission shall, thereupon, give to each water power operator proposed to be charged with tolls ten days' notice by mail of the amount of tolls recommended to be charged against him and of the time when and place where the * * * *public service* commission will hear objections to the proposed tolls. The * * * *public service* commission shall at the time appointed hear all objections made and may take evidence and make or cause to be made independent investigation of the validity of the same, and may adjourn, from time to time, and shall, as soon as practicable, on or about July 1st, and January 1st, of each year, determine and certify the amount of tolls to be collected from each water power operator for the period under consideration, and such tolls shall thereupon be due and payable to the Wisconsin Valley Improvement company.

Any person in interest being dissatisfied with any order of the commission authorized to be made under this act, may commence an action in the circuit court of the county where the property affected is located, against the commission as defendant to vacate and set aside any such order within sixty days from the date of the mailing to such person of a copy of such order by the commission, on the ground that such order is unlawful or unreasonable, in which case the complaint shall be served with the summons. The commission shall immediately notify the said company by mail of the service of said complaint. Within twenty days after the mailing of such notice, to said company, the

said company or said commission shall file its answer to said complaint and said action shall be at issue and stand ready for trial the same as any other action.

In all trials under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the commission complained of is unlawful or unreasonable as the case may be. Every party to said action, within sixty days after the service of a copy of the order of judgment of the circuit court, may appeal to the supreme court.

No tolls shall be levied or used to pay for any part of the original construction or purchase or betterment of the reservoir system. The amount of such tolls shall be a lien upon the water power, dam, franchises and flowage rights of the person or corporation chargeable with such tolls and in case such tolls shall not be paid when due the person or corporation entitled to collect the same, shall be entitled to sue for and collect the same by an action at law, or by a suit in equity for the foreclosure and enforcement of said lien, and for the sale of the property affected thereby pursuant to such judgment of foreclosure.

SECTION 6. No dam or reservoir not now in existence or heretofore authorized shall be constructed or created until the plan therefor showing the form and location of the dam and a description of the lands to be overflowed thereby be first submitted to the * * * *public service* commission of Wisconsin and approved thereby, after first giving reasonable notice and opportunity to be heard, to all persons interested, by publication in one or more newspapers most likely to give such notice, or such other notice as the commission shall deem advisable; nor shall any petition be filed for the condemnation of any property for the purposes of this act without first having attached thereto the approval in writing of said commission. Said commission shall cause the height to which the water may be raised by any dam to be marked by permanent monuments and bench marks and shall have supervision and control of the times and extent of the drawing of water from the reservoirs, and the power to compel the maintenance of all reservoirs, established. No capital stock or *negotiable bonds* of said improvement company shall be issued until the proposed issue thereof shall have been submitted to the * * * *public service* commission of Wisconsin and said commission shall have ascertained, determined and certified that the proposed issue will be in consideration of money or labor or property estimated at

its true money value actually received by said company, equal to the par value thereof, and it shall be the duty of the said commission to act promptly on any such proposition submitted. The money received by said company upon account of capital stock or sale of its negotiable bonds shall be used only in payment of the original cost of purchase, construction or betterment of the reservoir system and of the work preliminary thereto and necessary to prepare for or to determine upon the same; and all tolls collected as hereinbefore authorized shall be applied only to the payment of cost of maintenance and operation of the system and payment of the net return on capital above provided for; to the end that the capital stock and bonds of the corporation shall be maintained at par value at all times.

SECTION 2. A new section is added to chapter 335, laws of 1907, to read:

Section 6a. For the purpose of providing funds with which to erect or acquire dams, reservoirs, rights, waterways and easements, said Wisconsin Valley Improvement company shall have power, upon procuring authority therefor from the public service commission of Wisconsin, to issue its negotiable interest bearing bonds to an amount not exceeding one-half of the total of the cash investment of the reservoir system, bearing an effective interest rate not to exceed six per centum per annum, and to secure payment thereof by mortgage of its property; provided that in the event any such bonds are issued all net earnings of said Wisconsin Valley Improvement company shall be applied: (1) To the payment of interest charges on said bonds, (2) to annually retire and cancel an equal proportion of said bonds over the life of said bonds on a straight line basis so as to retire the entire issue of bonds at the maturity thereof, and (3) any balance of said net income remaining may be applied as a dividend payable to the holders of the capital stock then outstanding.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 25, 1933.