

**SUNDRY COMMUNICATIONS
AND LEGAL OPINIONS
CONCERNING THE USE OF THE
STREETS BY THE SANITARY
DISTRICT**

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Sundry Communications and Legal Opinions Concerning the Use of the Streets by the Sanitary District by Various

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VARIOUS

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CONCERNING THE USE OF THE
STREETS BY THE
SANITARY DISTRICT**

Chicago. City Council.

**Sundry Communications and
Legal Opinions**

CONCERNING THE

**Use of the Streets by the
Sanitary District**

For the Laying of Conduits, Erection of Poles and
Stringing of Wires for the Transmission of
Electrical Energy for Certain Purposes

REPRINTED FROM THE JOURNAL OF THE PROCEEDINGS
OF THE CITY COUNCIL OF THE CITY OF CHICAGO

JNO. R. McCABE
CITY CLERK
JUNE, 1908

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COMMUNICATION FROM HON. FRED A. BUSSE, MAYOR, TO THE
CITY COUNCIL OF THE CITY OF CHICAGO.

MAYOR'S OFFICE,
CHICAGO, June 8, 1908.

To the Honorable, the City Council:

GENTLEMEN—I transmit herewith copies of correspondence with interested departments of the City of Chicago, and copies of various legal opinions bearing upon questions at issue between the City of Chicago and the Sanitary District of Chicago, and respectfully recommend that these documents be printed in the Journal of the City Council for the information of the members of the City Council, City officials and the general public.

I take this means of putting the facts on record, because statements have been made from time to time in various newspapers and elsewhere, which might give the public the impression that the Sanitary District of Chicago is meeting with unfair treatment or discrimination at the hands of the City government in the District's efforts to sell and distribute electrical energy. Many, if not all, of the statements so made have been, I believe, misleading.

Communications from the Commissioner of Public Works and from the City Electrician transmitted herewith, will show you that the City has at all times stood ready to co-operate with the Sanitary District in its effort to distribute electrical current; that it has not discriminated against said District; that it has permitted said District to set some thirty-three miles of poles and to string nearly one hundred miles of electrical conductors without permits; and that it has tried to accommodate the District even to the point of winking at the law as construed by the City's legal advisers. In this connection, I may be pardoned for reiterating that the City government and its various departments must follow the law as construed by the City's law department until that law department's construction is proven to be wrong.

The communication from the City Electrician will further show you in detail the amount of work done by the Sanitary District in setting poles and stringing wires, and the character of such work in respect to its conformity to the ordinances and regulations of the City of Chicago, framed and enforced for the protection of life and property; and also an estimate of the amount of power which the Sanitary District has now available, and the amount which it may expect to have at some future time when the maximum flow of water is being discharged through the Drainage Canal. These estimates, I am informed, are figured on the basis usually adopted by practically all competent electrical engineers. I take the liberty of calling your attention particularly to that portion of the City Electrician's report, which shows that the Sanitary District has disregarded both the spirit and letter of the City Code in putting up electrical construction and in violation of the regulations covering electrical wiring in a manner that ought not to be permitted to any corporation, public or private.

On the question of whether the Sanitary District should be required to secure

frontage consents before setting poles and stringing wires, I submit copies of three different opinions prepared at different times by three different members of the law department all bearing upon this question and all in substantial agreement as to the law. In this connection, I desire to make clear one point: I am informed by the law department that the Sanitary District was invited about a year ago to join in a test case that would determine this question, but failed to do so. Therefore the law department, following what it believed and still believes to be the law, advised the Commissioner of Public Works not to issue any permits to the Sanitary District to set poles and string wires without securing frontage consents, because if poles and wires were thus put into the streets under authority of the City government and damage should result from said setting of poles and stringing of wires, the City of Chicago would have been liable for damages. The Commissioner of Public Works has followed this advice from the law department in declining to leave the City liable for damages by reason of the work done by the Sanitary District, but he has, as shown by his communication transmitted herewith, shut his eyes to the setting of some thirty-three miles of poles and the stringing of nearly one hundred miles of transmission wires when no complaint was made by property owners.

The City has at no time on its own initiative stopped the setting of poles and stringing of wires by the Sanitary District. If that part of the Sanitary District's work has been interrupted, the interruption has been due entirely to the action of individual citizens.

Respectfully submitted,

FRED A. BUSSE,
Mayor.

COMMUNICATION FROM HON. FRED A. BUSSE, MAYOR, TO MR. WM. CARROLL, CITY ELECTRICIAN.

CHICAGO, June 4, 1908.

Mr. William Carroll, City Electrician:

DEAR SIR: With a view to clearing up various questions that appear to be at issue between the City of Chicago and the Sanitary District of Chicago, I wish you would inform me on the following points:

Has the Sanitary District set any poles in the City of Chicago and strung overhead wires for transmission of electrical current or placed conduits for underground transmission? If so, please state the extent and location of this work, size of poles, distance apart, etc., and how many wires and how much current said poles carry.

Has the Sanitary District ever applied for, received or been denied permits for placing poles, conduits, etc., in the public streets?

What voltage does the Sanitary District overhead wires carry, and how does this compare with voltage carried overhead on other wires?

What is the character of overhead construction and distributive facilities put up by the Sanitary District? Is it safe, and does it conform to City regulations imposed upon all other classes of overhead electrical transmission wires?

Has the Sanitary District ever submitted a comprehensive or co-ordinated plan or even an outline of what it desires to do in the way of setting poles, placing conduits, stringing wires, etc., for supplying electrical current to private consumers so

that the Sanitary District and City Officials might co-operate in having said poles, etc., placed where they would be least objectionable to property owners and to the public as street obstructions?

What are other producers of electrical current permitted to do in the way of setting poles, placing conduits, stringing wires, etc., subject to ordinances and rules of the City that the Sanitary District is not permitted to do?

Yours very truly,

(Signed) FRED A. BUSSE,

Mayor.

**REPORT OF MR. WILLIAM CARROLL, CITY ELECTRICIAN, TO HON. FRED
A. BUSSE, MAYOR.**

CHICAGO, Ill., June 5, 1908.

Hon. Fred A. Busse, Mayor:

DEAR SIR—Replying to yours of June 4th, I beg leave to state that Sanitary District has set poles in the City of Chicago and strung overhead wires for transmission of electric currents as shown by the following statement:

| | Height of Poles. Feet. |
|--|------------------------------|
| Forty-eighth avenue, from West 30th street to West 41st street, east side of street | 35 |
| Forty-ninth avenue, from 12th street to Kinzie street, east side of street.... | 40 |
| Kinzie street, from 52nd avenue to Hamlin avenue, north and south sides of street | 40 |
| Hamlin avenue, from Kinzie street to Potomac avenue, east side of street.... | 40 |
| Potomac avenue, from Hamlin avenue to Kedzie avenue, south side of street.. | 40 |
| Alley west of Hamlin avenue, from Potomac avenue to North avenue, west side of street | 40 |
| Alley south of North avenue, from Hamlin avenue to Lowell avenue, north side of street | 35 |
| Lowell avenue, from North avenue to Wabansia avenue, west side of street.... | 35 |
| St. Louis avenue, from Potomac avenue to North avenue, east side of street.... | 35 |
| Alley east of Ballou street, from North avenue to Bloomingdale road, west side of street | 35 |
| Bloomingdale road, from Lawndale avenue to Ashland avenue, north side of street | 35 and 40 |
| Alley east of Ashland avenue, from Bloomingdale road one block south. | |
| Twelfth street, from 53rd avenue to 42nd court, north side of street..... | 40 |
| Forty-fifth court, from 12th street to Fillmore street, east side of street..... | 35 |
| Fillmore street, from 45th court to 43rd avenue, south side of street..... | 35 |
| 14th street, from 46th avenue to Avers avenue, south side of street..... | 40 |
| Avers avenue, from 14th street to 16th street, east side of street..... | 40 |
| Sixteenth street, from Avers avenue to Albany avenue, south side of street..... | 40 |
| Rockwell street, from 32nd street to 16th street, west side of street..... | 40 |
| 25th street, from Rockwell street to 40th avenue, south side of street..... | 40 |
| 40th avenue, from 25th street to 26th street, east side of street..... | 40 |
| 26th street, from 40th avenue to 46th avenue, north side of street..... | 40 |

| | Height of Poles. Feet. |
|--|------------------------------|
| Turner avenue, from 25th street to 30th street, east side of street..... | 40 |
| 21st street, from Campbell avenue to Washtenaw avenue, south side of street.. | 40 |
| 19th street, from Rockwell street to Washtenaw avenue, south side of street.... | 40 |
| Twenty-third street, from Rockwell street to Western avenue, south side of street | 40 |
| Western avenue, from 31st street to 43d street, west side of street..... | 40 |
| Western avenue, from 43d street to 103d street, west side of street..... | 35 |
| Forty-third street, from Western avenue to Ashland avenue, north side of street | 40 |
| Ashland avenue, from 43d street to 35th street, east and west sides of street, | 40 and 50 |
| Thirty-ninth street, from Ashland avenue 1 block east..... | 40 |
| Thirty-seventh street, from Ashland avenue one block east..... | 40 |
| Total number of miles of poles..... | 31.02 |
| Total number of miles of wire..... | 97.90 |
| Approximate number of poles | 1,415 |

They are using wooden poles, varying in length from 35 feet to 50 feet, and are set about 40 to the mile. There are in most places three wires on each pole route. The total horse power to which they have made wiring connections in the city up to May 23, 1908, including motors and 882 incandescent lamps, is 1,057 H. P. Current is distributed at a pressure of 12,000 volts. The Sanitary District has not placed any conduits in the public streets. No permits of any kind have been issued for the work they have done. Applications were made for permits to set poles which I was informed were not issued on account of the opinion of the City Law Department that the city could not legally issue such permits without the Sanitary District first obtaining the frontage consents required by law.

You ask what is the character of overhead construction and distributive facilities put up by the Sanitary District? Is it safe and does it conform to city regulations imposed upon all other classes of electrical overhead transmission wires?

The District is distributing by overhead circuits, at 12,000 volts' pressure from their terminal stations at Western avenue near 31st street, and have wired to serve 26 customers, to 15 of whom it is proposed to furnish incandescent light, and to 22 of whom it is proposed to furnish power for motors. The service is to be given to these companies through transformers, located on poles, and stepping down from 12,000 to 220 volts.

This class of service comes under the head of extra high potential systems, and according to the rules of the Department of Electricity and National Board of Fire Underwriters, the secondary wires leading from these transformers into the buildings, and throughout the buildings, should be installed under the rules for high potential systems, which rules would prohibit entirely the use of incandescent lamps.

The present method of distributing current and serving customers employed by the Sanitary Trustees is in violation of the rules of the Department of Electricity, which are a part of the City Code, and also a violation of the rules of the National Board of Fire Underwriters. All other electric light and power companies operating inside the city limits are required to comply with these rules, which were compiled and put in force to protect life and property.

I have been asked, "Is it not true that the transmission wires of private cor-

porations, even though carrying a lower voltage, are equally dangerous to life if a person comes in contact with them?" This would depend upon the manner of contact. A person might be partially insulated from the earth and come in contact with a low voltage wire with no disagreeable results, while under the same conditions, contact with a high voltage wire would destroy life. As a general proposition it can be safely said that the lower the voltage the less the danger to life and property and the higher the voltage the greater the danger. In my opinion, the present distributing system of the Sanitary District is unsafe.

On April 2 I notified the electrical engineer of the Sanitary District that my attention had been called to the fact that he was preparing to furnish current for buildings for power and incandescent lighting and called his attention to the rules referring to extra high potential systems. On April 3, I received a letter describing their system of distribution and containing the following statement:

"This arrangement we have adopted temporarily until such time as we can get some idea of the distribution of our load and can design and locate such stations at the proper points."

On May 29th I caused the chief electrical inspector of this department to notify the Sanitary Trustees that they were operating in violation of the rules and regulations of the Department of Electricity which are a part of the City Code. On June 1st Mr. Ellicott answered this notification with a letter claiming in substance that the system which he was using was practically safe and complied with the rules and stated there are "A large number of users of current furnished by our competitors where the same rule is not now and never has been observed." After careful inquiry I cannot find any place in the City of Chicago where a corporation manufacturing and distributing electricity is not complying with the rules.

I wish to state that the electrical inspectors and electrical engineers in this department, the electrical engineer of the Board of Fire Underwriters, and all other electrical engineers in the city (except the engineers of the Sanitary District) with whom I have consulted agree with me that the present method of distribution and service of the Sanitary District is unsafe to life and property.

In answer to your next question, the Sanitary District has never submitted a comprehensive or co-ordinated plan of what it desires to do in the way of setting poles, placing conduits, stringing wires, etc., for supplying electrical current to private consumers so that the Sanitary District and City Officials might co-operate in having said poles, etc., placed where they would be least objectionable to property owners and to the public as street obstructions.

You ask what are other producers of electrical current permitted to do in the way of setting poles, placing conduits, stringing wires, etc., subject to ordinances and rules of the city that the Sanitary District is not permitted to do?

Practically the only companies that set poles, string wires and place conduits in this city are the Commonwealth Edison Company, the Chicago Telephone Company and the Traction Companies.

When the Commonwealth Edison Company wishes to set poles or string wires or place conduits in the street they make written application in triplicate, addressed to the proper officers of the City of Chicago, stating what work they are required to do and giving a plan showing the proposed locations of the poles, whether in streets or alleys. This application must have the approval of the Law Department, the Engineering Department, Superintendent of Streets and the City

Electrician before the permit is issued by order of the Commissioner of Public Works and signed by the Superintendent of Streets and countersigned by the City Electrician. They pay the sum of \$2.00 for each permit so issued; 152 permits were issued during the month of May.

The applications of the Chicago Telephone Company to set poles are approved by the City Electrician, Corporation Counsel, Commissioner of Public Works, Superintendent of Streets and both aldermen of the ward in which the poles are to be located before the permit is finally issued. The ordinance does not require that these permits be sent to the aldermen of the ward, but the Telephone Company prefers to have it done in order to avoid subsequent friction.

It has been the custom for this department to maintain friendly relations with the companies maintaining poles and conduits in the City's streets. Under these relations the department gets quite a few privileges for the City in the way of help during storms when it is imperative that the City's fire alarm and police telegraph systems be kept in as good working order as possible, and under these relations the City is using 1,678 of the Commonwealth Edison Company's poles and the Commonwealth Edison Company have wires on 462 of the City's poles. The Commonwealth Edison Company is not occupying any of the City's conduits, neither is the City occupying any of the Commonwealth Edison Company's conduits. The ordinance of the Commonwealth Edison Company provides that the City shall have the use of one cross-arm on the company's poles, but in a great many places the City is using more than one cross-arm of the Company's poles without compensation.

The Sanitary District maintain about 33 miles of three-phase transmission lines, overhead, at 12,000 volts, and no underground. The Commonwealth Edison Company maintain about 17 miles of three-phase transmission lines overhead at a voltage of 5,000 and under 12,000, and about 274½ miles of underground.

The City maintains 12¼ miles of aerial three-phase transmission lines operated at 6,600 volts and 2 miles underground. Also, 48-10 aerial operated at 12,000 volts, and 11½ miles underground.

The voltage used on the old City lighting circuits vary from 5,000 to 11,000. The voltage on all City lighting circuits built during the years 1906 and 1907 and planned for future work is 4,250. These transmission lines are used for conveying electrical energy to sub-stations and from there distributed for street lighting. They are not used for interior lighting.

In a communication to the Finance Committee, which is printed in the Council Proceedings of June 1, 1908, on pages 437, 438, 439 and 440, I called attention to the comparatively small amount of power which the District has to sell and the large area over which it is proposed to distribute. The statement that they have about 1,500 horse power to deliver at Western avenue has been disputed and called misleading. I beg leave to state that the estimate is based on the amount of water the Government will allow the District to take from the Lake, the head at the power plant and the unavoidable losses in turbines, generators, lines and transformers. With a full flow of 600,000 cubic feet a minute in the District's Canal when the Calumet Channel is finished, the District will be able to deliver at the City Limits approximately 23,000 horse power and distribute to customers a little less than 19,000 horse power. The estimate as to this follows: