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REGULATIONS FOR PUBLIC UTILITIES OPERATED BY PRIVATE COMPANIES

Under date of November 2 the Nanking Government gave out to the press a set of regulations for public utilities as operated by private companies. Naturally, so far as concerns foreigners who enjoy extra-territorial rights in China, the situation is one which has to be adjusted to meet this condition, which means that any negotiations in this particular have to take this phase of the subject into account. The regulations as appearing in the news item from Nanking read as follows:

"A set of Revised Regulations governing Government supervision over Public Utilities operated by private companies has been passed by the Legislative Yuan.

According to the revised Regulations, any of the following classes of Public Utilities, unless operated by the Central or Local Governments, may be operated by private companies:

(1) light, power and other electrical enterprises; (2) tramways; (3) telephones; (4) waterworks; (5) gas-works; (6) ordinary and long-distance omnibus services; (7) steamship transportation; (8) air transportation; and (9) other public utilities which, according to other laws, may be operated by private interests.

Except for these over which the Central Government organ concerned must exercise direct supervision, private-operated Utilities shall be subject, in the first instance, to supervision by the competent provincial, municipal or district organ; as well as to the Central Government organ concerned

(as the supreme supervising organ).

In order to carry on its enterprise, a private-operated Utilities must first apply for registration and obtain from the competent Central Government organ a licence as well as a chart delimiting the jurisdiction within which it may operate. Except upon special authorisation, it may not alter its firm-name or organisation or assign its interests to a third party.

Special permission from the competent authorities is necessary for the enforcement or revision of any schedule of rates or charges.

It is further provided that private-operated Utilities must, within three months of the end of each fiscal year, compile and submit a statement to both Central and local supervising organs giving: (1) names and qualifications of important members of the staff, (2) business report, (3) engineering report, (4) balance-sheet of assets and liabilities and profit and loss account. The local Government organ, upon receipt of these reports, must publish summaries thereof for the information of the public.

Where, during any fiscal year, the net profits exceed 25% of the total capital of the Utility concerned, one-half of the amount in excess must be devoted exclusively to the improvement of the service, and the balance earmarked as a special reserve for the benefit of the subscribers, to be used, whenever possible, for the reduction of the rates.

Another significant provision is that disputes arising

between the employers and employees of such Utilities must be submitted to compulsory arbitration.

Except by special permission from the National Government, no private-operated Utility may have foreign shareholders or obtain loans from foreign interests.

The duration of a charter to a private-operated Utility is fixed at thirty years, at the expiration of which the Government may take over the enterprise upon payment at a fair valuation to be assessed and fixed by experts to be appointed by the Company and the Government.

It is provided however that the Government must give two years' previous notice of its intention so to do. In the absence of such notice, the Company may continue to operate the Utility for a further period of ten years. The same provisions as to compensation apply in case the Government intends to take over the enterprise at the end of this extended period.

Penalties in the form of fines not exceeding \$1,000 are provided for infractions of certain articles of the Regulations."

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The amounts required for the service of the loan shall be deposited regularly with the Bank of China.

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