

of each year thereafter, the Auditor General [and the city treasurer] shall appoint five suitable qualified citizens as mercantile appraisers for [terms of four years each] a period of one year. Not all of said appraisers shall be members of the same political party. The powers, duties, and compensation of said appraisers shall be as now provided by law.

Appointment.

Term.

Powers, duties, salaries.

Section 2. The terms of mercantile appraisers in cities of the first class in office immediately prior to the first day of June, one thousand nine hundred thirty-seven, are hereby terminated as of that date.

Terms of present appraisers terminated.

Section 3. This act shall become effective immediately upon its final enactment.

When effective.

APPROVED—The 28th day of May, A. D. 1937.

GEORGE H. EARLE

No. 286

AN ACT

Relating to the regulation of public utilities; defining as public utilities certain corporations, companies, associations, and persons; providing for the regulation of public utilities, including, to a limited extent, municipalities engaging in public utility business, by prescribing, defining, and limiting their duties, powers, and liabilities, and regulating the exercise, surrender or abandonment of their powers, privileges, and franchises; defining and regulating contract carriers by motor vehicle and brokers in order to regulate effectively common carriers by motor vehicle; conferring upon the Pennsylvania Public Utility Commission the power and duty of supervising and regulating persons, associations, companies, and corporations, including, to a limited extent, municipal corporations subject to this act, and administering the provisions of this act; authorizing the commission to fix temporary rates; placing the burden of proof on public utilities to sustain their rates and certain other matters; authorizing a permissive or mandatory sliding scale method of regulating rates; providing for the supervision of financial and contractual relations between public utilities and affiliated interests, and supervision and regulation of accounts and securities or obligations issued, assumed, or kept by persons, associations, companies, corporations or municipal corporations subject to this act; conferring upon the commission power to vary, reform, or revise certain contracts; conferring upon the commission the exclusive power to regulate or order the construction, alteration, relocation, protection, or abolition of crossings of facilities of public utilities, and of such facilities by or over public highways, to appropriate property for the construction or improvement of such crossings, and to award or apportion resultant costs and damages; authorizing owners of such property to sue the Commonwealth for such damages; providing for ejectment proceedings in connection with the appropriation of property for crossings; conferring upon the commission power to control and regulate budgets of public utilities; imposing upon persons, associations, companies, and corporations (except municipal corporations) subject to regulation, the cost of administering this act; prescribing and regulating practice and procedure before the commission and procedure for review by

the courts of commission action; giving the court of common pleas of Dauphin County exclusive original jurisdiction over certain proceedings; prescribing penalties, fines, and imprisonment for violations of the provisions of this act and regulations and orders of the commission, and the procedure for enforcing such fines and penalties; and repealing legislation supplied and superseded by or inconsistent with this act.

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## ARTICLE I

## SHORT TITLE AND DEFINITIONS

Section 1. Short Title.—This act shall be known, and may be cited, as the "Public Utility Law."

Section 2. Definitions.—The following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

(1) "Affiliated Interest" means (a) any person or corporation who or which owns or controls, directly or indirectly, five per centum or more of the voting capital stock of a public utility; (b) any corporation, five per centum or more of the voting capital stock of which is owned or controlled, directly or indirectly, by any person or corporation who or which owns or controls, directly or indirectly, five per centum or more of the voting capital stock of a public utility; (c) any corporation, five per centum or more of the voting capital stock of which is owned or controlled, directly or indirectly, by a public utility; (d) any person or corporation who or which, either singly or in conjunction with one or more other persons or corporations, is exercising any substantial influence over the policies, acts, or actions of a public utility, or stands in such relationship to the public utility that there is an absence of free and equal bargaining power between him or it and the public utility: Provided, however, That any public utility, prior to contracting with any person or corporation, may apply to the commission for a determination as to whether or not such person or corporation is an affiliated interest, as herein defined; and (e) any director, officer, or employe of an affiliated interest, as herein defined.

(2) "Broker" means any person or corporation not included in the term "motor carrier" and not a bona fide employe or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing, providing, or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier.

(3) "Commission" means the Pennsylvania Public Utility Commission of this Commonwealth.

(4) "Commissioner" means one of the members of the Pennsylvania Public Utility Commission.

(5) "Common Carrier" means any and all persons or corporations holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by, through, over, above, or under land, water, or air, and shall include

forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

(6) "Common Carrier by Motor Vehicle" means any common carrier who or which holds out or undertakes the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes any motor vehicle, with or without driver, for transportation or for use in transportation of persons or property as aforesaid, and shall include common carriers by rail, water, or air, and express or forwarding public utilities in so far as such common carriers or such public utilities are engaged in such motor vehicle operations, but shall not include a lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision, or control of the motor vehicle so sold.

(7) "Contract Carrier by Motor Vehicle" means any person or corporation who or which provides or furnishes transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for such transportation, or for use in such transportation, other than as a common carrier by motor vehicle, but shall not include—(a) a lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision or control of the motor vehicle so sold; or (b) any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

(8) "Contract with an Affiliated Interest" means any agreement or contract, written or oral, express or implied, entered into by any public utility and an affiliated interest for the purchase, sale, payment, lease, loan, or exchange of any service, property, money, security, right, or thing.

(9) "Corporation" means all bodies corporate, joint-stock companies, or associations, domestic or foreign, their lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations, except as otherwise expressly provided in this act,



nor bona fide cooperative associations which furnish service on a nonprofit basis only to their stockholders or members.

(10) "Facilities" means all the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with, the business of any public utility: Provided, however, That no property owned by the Commonwealth of Pennsylvania at the date when this act becomes effective shall be subject to the commission or to any of the terms of this act, except as elsewhere provided herein.

(11) "Forwarder" means any person or corporation not included in the terms "motor carrier" or "broker," as herein defined, who or which issues receipts or billings for property received by such person or corporation for transportation, forwarding, or consolidating, or for distribution by any medium of transportation or combination of media of transportation, other than solely by motor vehicle.

(12) "Highway" means every way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel.

(13) "Motor Carrier" means a common carrier by motor vehicle, and a contract carrier by motor vehicle.

(14) "Motor Vehicle" means any vehicle which is self-propelled, excepting power shovels, tractors other than truck tractors, road rollers, agricultural machinery, and vehicles which solely move upon or are guided by a track, or travel through the air.

(15) "Municipal Corporation" means all cities, boroughs, towns, townships, or counties of this Commonwealth, and also any public corporation, authority, or body whatsoever created or organized under any law of this Commonwealth for the purpose of rendering any service similar to that of a public utility.

(16) "Person" means individuals, partnerships, or associations other than corporations, and includes their lessees, assignees, trustees, receivers, executors, administrators, or other successors in interest.

(17) "Public Utility" means persons or corporations now or hereafter owning or operating in this Commonwealth equipment, or facilities for:

(a) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation;

(b) Diverting, generating, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation;

(c) Transporting passengers or property as a common carrier;

(d) Use as a canal, turnpike, tunnel, bridge, wharf, and the like for the public for compensation;

(e) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or other fluid substance, by pipe line or conduit, for the public for compensation;

(f) Conveying or transmitting messages or communications by telephone or telegraph for the public for compensation;

(g) Sewage collection, treatment, or disposal for the public for compensation.

The term "Public Utility" shall not include (a) any person or corporation, not otherwise a public utility, who or which furnishes service only to himself or itself; or (b) any bona fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis; or (c) any producer of natural gas not engaged in distributing such gas directly to the public for compensation.

(18) "Railroad" means every railroad, other than a street railway, by whatsoever power operated, for public use in the conveyance of passengers or property, or both, and all the facilities thereof.

(19) "Rate" means every individual, or joint fare, toll, charge, rental, or other compensation whatsoever of any public utility, or contract carrier by motor vehicle, made, demanded, or received for any service within this act, offered, rendered, or furnished by such public utility, or contract carrier by motor vehicle, whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.

(20) "Service" is used in this act in its broadest and most inclusive sense, and includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this act to their patrons, employes, other public utilities, and the public, as well as the interchange of facilities between two or more of them.

(21) "Street Railway" means every railroad and railway, or any extension or extensions thereof, by whatsoever power operated, for public use in the conveyance of passengers or property, or both, located mainly or in part upon, above, below, through, or along any

highway in any city, borough, or town, and not constituting or used as a part of a trunk line railroad system, and all the facilities thereof.

(22) "Tariff" means all schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carrier.

(23) "Transportation of Passengers or Property" means any and all service in connection with the receiving, transportation, elevation, transfer in transit, ventilation, refrigeration, icing, storage, handling, and delivering of property, baggage or freight, as well as any and all service in connection with the transportation or carrying of passengers.

The singular shall include the plural, and the masculine shall include the feminine and neuter.

## ARTICLE II

### CERTIFICATES OF PUBLIC CONVENIENCE

Section 201. Organization of Public Utilities and Beginning of Service.—Upon the approval of the commission, evidenced by its certificate of public convenience first had and obtained, and not otherwise, it shall be lawful for any proposed public utility—

(a) To be incorporated, organized, or created: Provided, That existing laws relative to the incorporation, organization, and creation of such public utilities shall first have been complied with, prior to the application to the commission for its certificate of public convenience.

(b) To begin to offer, render, furnish, or supply service within this Commonwealth.

Section 202. Enumeration of Acts Requiring Certificate.—Upon approval of the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, and not otherwise, it shall be lawful:

(a) For a foreign public utility to obtain the right to do business within this Commonwealth, if existing laws permit such foreign public utility to exercise its powers and franchises within this Commonwealth.

(b) For any public utility to renew its charter, or obtain any additional right, power, franchise, or privilege, by any amendment or supplement to its charter, or otherwise.

(c) For any public utility to begin the exercise of any additional right, power, franchise, or privilege.

(d) For any public utility to dissolve, or to abandon or surrender, in whole or in part, any service, right, power, franchise, or privilege: Provided, That the com-

mission, by regulation, may exempt any class of service from the provisions of this paragraph: And provided further, That the provisions of this paragraph shall not apply to discontinuance of service to a patron for non-payment of a bill, or upon request of a patron.

(e) For any public utility to begin the construction, installation, or operation of any new plant or system, or the construction or installation of any extension, improvement, or addition to its existing plant or system, or to acquire from, or transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever (including among other things a consolidation, merger, sale or lease) the title to, or the possession or use of, any tangible or intangible property whatsoever: Provided, however, That the commission may, by regulation, exempt any class of construction, installation or improvement, or any class of property from the provisions of this paragraph.

(f) For any public utility to acquire five per centum or more of the voting capital stock of any corporation.

(g) For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.

Section 203. Procedure to Obtain Certificates of Public Convenience.—(a) Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if and when the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public; and the commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted. Any holder of a certificate of public convenience, exercising the authority conferred by such certificate, shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

(b) For the purpose of enabling the commission to make such finding or determination, it shall hold such hearings, which shall be public, and, before or after hearing, it may make such inquiries, physical examinations, valuations, and investigations, and may require such plans, specifications, and estimates of cost, as it may deem necessary or proper in enabling it to reach a finding or determination.

## ARTICLE III

## RATES AND RATE MAKING

Section 301. Rates to Be Just and Reasonable.—Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission: Provided, That any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.

Section 302. Tariffs; Filing and Inspection.—Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission. The tariffs of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, so far as practicable, to the form of those prescribed by such Federal regulatory body. Every public utility shall keep copies of such tariffs open to public inspection under such rules and regulations as the commission may prescribe.

Section 303. Adherence to Tariffs.—No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto then filed in the manner provided in this act. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this act: Provided, That any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.

Section 304. Discrimination in Rates. — No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. Unless specially authorized by the commission, no public utility shall make, demand, or receive any greater rate in the aggregate for the transportation of passengers or property of the same class, or for the transmis-

sion of any message or conversation for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or any greater rate as a through rate than the aggregate of the intermediate rates. Nothing herein contained shall be deemed to prohibit the establishment of reasonable zone or group systems, or classifications of rates or, in the case of common carriers, the issuance of excursion, commutation, or other special tickets at special rates, or the granting of nontransferable free passes, or passes at a discount to any officer, employe, or pensioner of such common carrier. No rate charged by a municipality for any public utility service rendered or furnished beyond its corporate limits shall be considered unjustly discriminatory solely by reason of the fact that a different rate is charged for a similar service within its corporate limits.

Section 305. Advance Payment of Rates.—No public utility shall require the payment of rates in advance, or the making of minimum payments, ready to serve charges, or deposits to secure future payments of rates, except as the commission, by regulation or order, may permit: Provided, That any deposit made by any domestic consumer, under the provisions of this section or under any act repealed by this act, shall be returned with any interest due thereon to the consumer making such deposit when he shall have paid undisputed bills for service over a period of twelve consecutive months.

Section 306. Apportionment of Joint Rates.—Where public utilities entitled to share in any joint rate shall be unable to agree upon the division thereof, or shall make any unjust or unreasonable division or apportionment thereof, the commission may, after hearing, upon its own motion or upon complaint, fix the proportion to which each public utility shall be entitled.

Section 307. Sliding Scale of Rates.—(a) Any public utility, except a common carrier, may establish a sliding scale of rates or such other method for the automatic adjustment of the rates of the public utility as shall provide a just and reasonable return on the fair value of the property used and useful in the public service, to be determined upon such equitable or reasonable basis as shall provide such fair return: Provided, That a tariff showing the scale of rates under such arrangement is first filed with the commission, and such tariff, and each rate set out therein, approved by it. The commission may revoke its approval at any time and fix other rates for any such public utility if, after notice and hearing, the commission finds the existing rates unjust or unreasonable.

(b) The commission, by regulation or order, upon reasonable notice and after hearing, may prescribe for

any class of public utilities, except a common carrier, a mandatory system for the automatic adjustment of their rates, by means of a sliding scale of rates or other method, on the same basis as provided in paragraph (a), to become effective when and in the manner prescribed in such regulation or order. Every such public utility shall, within such time as shall be prescribed by the commission, file tariffs showing the rates established in accordance with such regulation or order.

Section 308. Voluntary Changes in Rates.—(a) Unless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after sixty days' notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The public utility shall also give such notice of the proposed changes to other interested persons as the commission in its discretion may direct. All proposed changes shall be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time. The commission, for good cause shown, may allow changes in rates, without requiring the sixty days' notice, under such conditions as it may prescribe.

(b) Whenever there is filed with the commission by any public utility any tariff stating a new rate, the commission may, either upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, and pending such hearing and the decision thereon, the commission, upon filing with such tariff and delivering to the public utility affected thereby a statement in writing of its reasons therefor, may, at any time before it becomes effective, suspend the operation of such rate for a period not longer than six months from the time such rate would otherwise become effective, and an additional period of not more than three months pending such decision. The rate in force when the tariff stating the new rate was filed shall continue in force during the period of suspension, unless the commission shall establish a temporary rate as authorized in section three hundred ten of this act. The commission shall consider the effect of such suspension in finally determining and prescribing the rates to be thereafter charged and collected by such public utility.

(c) If, after such hearing, the commission finds any such rate to be unjust or unreasonable, or in anywise in violation of law, the commission shall determine the just and reasonable rate to be charged or applied by the public utility for the service in question, and shall fix the same by order to be served upon the public utility; and such rate shall thereafter be observed until changed as provided by this act.

Section 309. Rates Fixed on Complaint.—Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the existing rates of any public utility for any service are unjust, unreasonable, or in anywise in violation of any provision of law, the commission shall determine the just and reasonable rates (including maximum or minimum rates) to be thereafter observed and in force, and shall fix the same by order to be served upon the public utility, and such rates shall constitute the legal rates of the public utility until changed as provided in this act. Whenever a public utility does not itself produce or generate that which it distributes, transmits, or furnishes to the public for compensation, but obtains the same from another source, the commission shall have the power and authority to investigate the cost of such production or generation in any investigation of the reasonableness of the rates of such public utility.

Section 310. Temporary Rates.—(a) The commission may, in any proceeding involving the rates of a public utility brought either upon its own motion or upon complaint, after reasonable notice and hearing, if it be of opinion that the public interest so requires, immediately fix, determine, and prescribe temporary rates to be charged by such public utility, pending the final determination of such rate proceeding. Such temporary rates, so fixed, determined, and prescribed, shall be sufficient to provide a return of not less than five per centum upon the original cost, less accrued depreciation, of the physical property (when first devoted to public use) of such public utility, used and useful in the public service, and if the duly verified reports of such public utility to the commission do not show such original cost, less accrued depreciation, of such property, the commission may estimate such cost less depreciation and fix, determine, and prescribe rates as hereinbefore provided.

(b) If any public utility does not have continuing property records, kept in the manner prescribed by the commission, under the provisions of section five hundred two of this act, then the commission, after reasonable notice and hearing, may establish temporary rates which shall be sufficient to provide a return of not less than an amount equal to the operating income for the year ending December thirty-first, one thousand nine hundred thirty-five, or such other subsequent year as the commission may deem proper, to be determined on the basis of data appearing in the annual report of such public utility to the commission for the year one thousand nine hundred thirty-five, or such other subsequent year as the commission may deem proper, plus or minus such return as the commission may prescribe from time to time upon such net changes of the physical property



as are reported to and approved for rate-making purposes by the commission. In determining the net changes of the physical property, the commission may, in its discretion, deduct from gross additions to such physical property the amount charged to operating expenses for depreciation or, in lieu thereof, it may determine such net changes by deducting retirements from the gross additions: Provided, That the commission, in determining the basis for temporary rates, may make such adjustments in the annual report data as may, in the judgment of the commission, be necessary and proper.

(c) The commission may, in the manner hereinbefore set forth, fix, determine, and prescribe temporary rates every month, or at any other interval, if it be of opinion that the public interest so requires, and the existence of proceedings begun for the purpose of establishing final rates shall not prevent the commission from changing every month, or at any other interval, such temporary rates as it has previously fixed, determined, and prescribed.

(d) Whenever the commission, upon examination of any annual or other report, or of any papers, records, books, or documents, or of the property of any public utility, shall be of opinion that any rates of such public utility are producing a return in excess of a fair return upon the fair value of the property of such public utility, used and useful in its public service, the commission may, by order, prescribe for a trial period of at least six months, which trial period may be extended for one additional period of six months, such temporary rates to be observed by such public utility as, in the opinion of the commission, will produce a fair return upon such fair value, and the rates so prescribed shall become effective upon the date specified in the order of the commission. Such rates, so prescribed, shall become permanent at the end of such trial period, or extension thereof, unless at any time during such trial period, or extension thereof, the public utility involved shall complain to the commission that the rates so prescribed are unjust or unreasonable. Upon such complaint, the commission, after hearing, shall determine the issues involved, and pending final determination the rates so prescribed shall remain in effect.

(e) Temporary rates so fixed, determined, and prescribed under this section shall be effective until the final determination of the rate proceeding, unless terminated sooner by the commission. In every proceeding in which temporary rates are fixed, determined, and prescribed under this section, the commission shall consider the effect of such rates in fixing, determining, and prescribing rates to be thereafter demanded or received by such public utility on final determination of the rate

proceeding. If, upon final disposition of the issues involved in such proceeding, the rates as finally determined, are in excess of the rates prescribed in such temporary order, then such public utility shall be permitted to amortize and recover, by means of a temporary increase over and above the rates finally determined, such sum as shall represent the difference between the gross income obtained from the rates prescribed in such temporary order and the gross income which would have been obtained under the rates finally determined if applied during the period such temporary order was in effect.

Section 311. Valuation of Property of a Public Utility.—The commission may, after reasonable notice and hearing, ascertain and fix the fair value of the whole or any part of the property of any public utility, in so far as the same is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the fair value of all new construction, extensions, and additions to the property of any public utility. When any public utility furnishes more than one of the different types of utility service enumerated in paragraph seventeen of section two of this act, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the property of such public utility for the purpose of fixing rates.

Section 312. Burden of Proof in Rate Proceedings.—In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

Section 313. Refunds. — (a) If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within two years prior to the date of the filing of the complaint, together with interest at the legal rate from the date of each such excessive payment. In making a determi-

nation under this section, the commission need not find that the rate complained of was extortionate or oppressive. Any order of the commission awarding a refund shall be made for and on behalf of all patrons subject to the same rate of the public utility. The commission shall state in any refund order the exact amount to be paid, the reasonable time within which payment shall be made, and shall make findings upon pertinent questions of fact. An appeal may be taken to the Superior Court from any refund order, but if no such appeal is taken, the parties shall be bound by the findings and orders of the commission.

(b) If the public utility fails to make refunds within the time for payment fixed by any final order of the commission, or any appellate court, as the case may be, any patron entitled to any refund may sue therefor in any court of common pleas of this Commonwealth, and the findings and order made by the commission shall be prima facie evidence of the facts therein stated, and that the amount awarded is justly due the plaintiff in such suit, and the defendant public utility shall not be permitted to avail itself of the defense that the service was, in fact, rendered to the plaintiff at the rate contained in its tariffs in force at the time payment was made and received, nor shall the defendant public utility be permitted to avail itself of the defense that the rate was reasonable: Provided, That any patron entitled to any refund shall be entitled to recover, in addition to the amount of refund, a penalty of fifty per centum of the amount of such refund, together with all court costs and reasonable attorney fees. No suit may be maintained for a refund unless instituted within one year from the date of the order of the commission or its final affirmance by an appellate court. Any number of patrons entitled to such refund may join as plaintiffs and recover their several claims in a single action, in which action the court shall render a judgment severally for each plaintiff as his interest may appear.

(c) No action shall be brought in any court for a refund, unless and until the commission shall have determined that the rate in question was unjust or unreasonable, or in violation of any regulation or order of the commission, or in excess of the applicable rate contained in an existing and effective tariff, and then only to recover such refunds as may have been awarded and directed to be paid by the commission in such order.

#### ARTICLE IV

##### SERVICE AND FACILITIES

Section 401. Character of Service and Facilities.—Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facili-

ties, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employes, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this act and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility.

Section 402. Discrimination in Service.—No public utility shall, as to service, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to service, either as between localities or as between classes of service, but nothing herein contained shall be deemed to prohibit the establishment of reasonable classifications of service.

Section 403. Operation and Distribution of Facilities of Common Carriers.—Every common carrier shall furnish a reasonably sufficient number of safe facilities, and run and operate the same with such motive power as may reasonably be required, in the transportation of all such passengers or property as may seek, or be offered to it, for such transportation, and shall operate its facilities with sufficient frequency, at such reasonable and proper times, and to and from such stations or points, as the commission, having regard to the accommodation, convenience, and safety of the public, may require; and, when required by the commission, shall change the time schedule for the operation of its facilities, and, generally, shall make any other arrangements and improvements in its service which the commission may require. If, at any particular time, a common carrier may not have sufficient facilities to meet the requirements for the transportation of property, then it shall lawfully distribute all available facilities among the several applicants therefor without discrimination between shippers, localities, or competitive or noncompetitive points, in accordance with such regulations as the commission may prescribe: Provided, That such

regulations, in the case of common carriers also engaged in interstate commerce, shall conform so far as practicable to those prescribed by any Federal regulatory body on the subject: And provided further, That preferences may always be given in the supply of facilities for transportation of fuel, livestock, or perishable matter.

Section 404. Transfers and Time Schedules of Common Carriers.—Every common carrier shall, whenever the commission shall, after hearing had upon its own motion or upon complaint, deem it necessary or proper for the accommodation, convenience, and safety of the public in the transportation of passengers, transfer such passengers to or from another part of the system of such common carrier and, to this end, shall make proper and convenient arrangement or adjustment of the time schedules of such common carrier, and shall also make such proper and convenient arrangement or adjustment of the time schedules of such common carrier with those of like, contiguous, or connecting common carriers, as the commission shall deem necessary or proper for the accommodation, convenience, and safety of the public.

Section 405. Common Carrier Connections with Other Lines.—Every common carrier shall construct and maintain, whenever the commission may, after hearing had upon its own motion or upon complaint, require the same, such switch or other connections with or between the lines of a\* like common carrier, where the same is reasonably practical, to form a continuous line of transportation, and to cause the transportation of passengers or property between points within this Commonwealth to be without unreasonable interruption or delay, and shall establish through routes and service therein, and joint rates applicable thereto, and, where practicable, shall transport passengers or property over the same without transfer from the originating facilities. In case of failure of the common carriers concerned to agree among themselves upon the division of the cost of construction, maintenance, and operation of the connections thus provided for, or the allowance to be made for the interchange of service, the commission shall ascertain and, by order, prescribe and fix the equitable and just apportionment and division of the same.

Section 406. Railroad Connections with Sidetracks and Laterals.—Every public utility engaged in a railroad business shall, upon application of any owner or operator of any lateral railroad, or any private sidetrack, or of any shipper tendering property for transportation, or of any consignee, construct, maintain, and operate, at a reasonable place and upon reasonable terms, a switch connection with any such lateral railroad or private sidetrack which may be constructed to

\* "a" inserted.

connect with its railroad, where such connection may be reasonably practicable and can be put in with safety, and will furnish sufficient business to justify the construction and maintenance of the same: Provided, That whenever any lateral line of railroad or private sidetrack has been so connected with a line of any railroad, or whenever any owner of such lateral railroad or private sidetrack has at any time heretofore sold or leased, or shall hereafter sell or lease, such lateral railroad or sidetrack to any public utility engaged in a railroad business, any person or corporation, including a municipal corporation, shall be entitled to connect therewith, or to use the same upon payment to the party incurring the primary expense thereof of a reasonable proportion of the cost of such lateral railroad or private sidetrack, and of the maintenance thereof, which shall be determined, in case of disagreement among the parties, by the commission, after notice to the interested parties, and a hearing: Provided, That such connection and use can be made without unreasonable interference with the use thereof by the party incurring the primary expense of owning or leasing such lateral railroad or sidetrack.

Section 407. Liability of Common Carriers for Damages to Property in Transit; Bills of Lading.—Every common carrier that receives property for transportation between points within this Commonwealth shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it, or any other common carrier to which such property may be delivered, or over whose line such property may be transported. No contract, receipt, rule or regulation shall exempt such common carrier from the liability hereby imposed: Provided, That the commission may, by regulation or order, authorize or require any common carrier to establish and maintain rates related to the value of shipments declared in writing by the shipper, or agreed upon in writing as the released value of such shipments; such declaration or agreement to have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released. Any tariff filed\* pursuant to such regulation or order shall specifically refer thereto: Provided further, That nothing in this section shall deprive any lawful holder of such receipt or bill of lading of any remedy or right of action which such holder has under existing laws. Any common carrier issuing such receipt or bill of lading shall, in the event of a recovery of a judgment against, or of a satisfaction made by, such common carrier for such loss or damage, be entitled to recover from

\* "file" in the original.

the common carrier on whose line the loss or damage shall have been sustained, an amount not in excess of the loss or damage to such property which the lawful holder of such bill of lading or receipt would otherwise have been entitled to recover against such last mentioned common carrier, and not in excess of the amount actually paid to the holder of such receipt or bill of lading.

Section 408. Joint Use of Telephone and Telegraph Facilities.—(a) The commission may, upon complaint or upon its own motion, after reasonable notice and hearing, by order, require any two or more public utilities engaged in a telephone or telegraph business, whose lines or wires form a continuous line of communication, or could be made to do so by the construction and maintenance of suitable connections or the joint use of facilities, or the transfer of messages at common points, between different localities which cannot be communicated with, or reached by, the lines of either public utility alone, where such service is not already established or provided, to establish and maintain through lines within the Commonwealth between two or more such localities. The rate for such service shall be just and reasonable and the commission shall have power to establish the same, and declare the portion thereof to which each company affected thereby is entitled and the manner in which the same must be secured and paid. All facilities necessary to establish such service shall be constructed and maintained in such manner and under such rules, with such division of expense and labor, as may be required by the commission.

(b) The commission may, upon complaint or upon its own motion, after reasonable notice and hearing, by order, require any one or more public utilities, engaged in a telephone or telegraph business, to connect their facilities, through the medium of suitable trunk lines, with such manual or automatic inter-communicating telephone or telegraph systems as may be wholly owned or leased by such public utilities, or by any other person or corporation. Rates for such trunk line connections and service shall be in accordance with tariffs filed with and approved by the commission.

Section 409. Construction, Improvement, Protection, and Abolition of Crossings; Recording.—(a) No public utility shall, without prior order of the commission, construct its facilities across the facilities of any other public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated or abolished: Pro-

vided, That the commission may, by regulation, exempt any class of crossings from the requirements of this paragraph.

(b) The commission is hereby vested with exclusive power to appropriate property for any such crossing, and to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be constructed, altered, relocated or abolished, and the manner and conditions in or under which such crossings shall be maintained, operated, and protected to effectuate the prevention of accidents and the promotion of the safety of the public.

(c) Upon its own motion or upon complaint, the commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be abolished upon such reasonable terms and conditions as shall be prescribed by the commission. In determining the plans and specifications for any such crossing, the commission may lay out, establish, and open such new highways as, in its opinion, may be necessary to connect such crossing with any existing highway, or make such crossing more available to public use; and may abandon or vacate such highways or portions of highways as, in the opinion of the commission, may be rendered unnecessary for public use by the construction, relocation, or abandonment of any of such crossings. The commission may order the work of construction, relocation, alteration, protection, or abolition of any crossing aforesaid to be performed in whole or in part by any public utility or municipal corporation concerned or by the Commonwealth.

(d) When any real property is appropriated by the commission under this section, each parcel of such property so appropriated, shall be accurately described by metes and bounds, and the record owner of each such parcel shall be named in the order of appropriation. The commission shall file with the recorder of deeds of the proper county, a copy of such order of appropriation, and such other detailed information as the commission may deem necessary. Such order shall be recorded and indexed under the name or names of the record owners of such property at the expense of the county.

Section 410. Ejectment in Crossing Cases.—When any real property is appropriated by the commission in connection with a crossing improvement under this act, the commission may direct the removal of all structures within the lines of such appropriation. All such orders heretofore made are hereby ratified and validated. In any case where any such order has been or shall be



made, the court of common pleas of the county wherein the property appropriated shall be situate, may, upon petition by the commission, the Department of Highways, or the county commissioners, issue a writ or writs of possession. Such writs shall be issued after petition for a rule, returnable in ten days, to show cause why the writ shall not be issued. Such rule shall be served by the sheriff upon the respondents named in the petition, and upon all other persons found in possession of any occupied dwelling house taken, in whole or in part, by such condemnation or appropriation. The prothonotary shall add the names of such other persons, as respondents, after service of the rule. If no answer be filed, or if an answer is filed, and after such hearing as the court shall direct, it shall deem the same to be insufficient, the court shall, upon motion, direct such writ to issue, and shall order and direct the sheriff of the county, or his deputy, to execute such writ and deliver possession to the Commonwealth or the county, as the case may be. Such procedure shall not be considered as in derogation of, or in any manner affecting, any other powers or procedure possessed by the Commonwealth or county in such cases. No bond or other form of security shall be required to be filed by the Commonwealth or the county.

Section 411. Compensation for Damages Occasioned by Construction, Relocation, Protection, Alteration, or Abolition of Crossings.—(a) The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this act, shall, after due notice and hearing, be ascertained and determined by the commission. Such compensation, as well as the expense of such construction, relocation, alteration, protection, or abolition of any crossing, shall be borne and paid, as hereinafter provided, by the public utilities or municipal corporations concerned, or by the Commonwealth, in such proper proportions as the commission may, after due notice and hearing, determine, unless such proportions are mutually agreed upon and paid by the interested parties. Any party to the proceeding dissatisfied with the determination of the commission may appeal therefrom, as provided in section one thousand one hundred one of this act, and for this purpose is hereby authorized to sue the Commonwealth: Provided, however, That the commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall ap-

point viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the general law applicable to the appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use.

(b) The amount of damages or compensation determined and awarded to be paid the owners of adjacent property by the Commonwealth, as aforesaid, shall, in each instance, be paid by the State Treasurer, on a warrant drawn by the Auditor General, upon the presentation to that officer of a statement setting forth the amount determined to be paid as aforesaid, duly certified by the commission; such payment to be paid out of any funds specifically appropriated for the improvement of the roads or highways of the Commonwealth; and in case of a verdict and judgment thereon for the damages or compensation, recorded by any such adjacent property owners upon appeal, the same shall be paid out of any funds appropriated as aforesaid; and any court of common pleas hearing and determining such appeal is hereby authorized and empowered to issue a writ of mandamus to such commission, the Auditor General, and the State Treasurer, or any of them, as the case may require, for the payment of such judgment.

(c) The commission shall have the right to recover, for and on behalf of the Commonwealth, by due process of law, as debts of like amount are now by law recoverable, from the public utility or municipal corporation concerned, in such amounts or proportions against each as may be determined by the commission, as hereinbefore provided in this section, the amount of the damages or compensation awarded to the owners of adjacent property by the commission, or by the court of the proper county on appeal, and the amounts so received shall be paid into the State Treasury, through the Department of Revenue, to the credit of the Motor License Fund.

Section 412. Standards of Service and Facilities.—The commission may, after reasonable notice and hearing, upon its own motion or upon complaint, prescribe as to service and facilities, just and reasonable standards, classifications, regulations, and practices to be furnished, imposed, observed, and followed by any or all public utilities; prescribe adequate and reasonable standards for the measurement of quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of the service of any and all public utilities; prescribe reasonable regulations for the examination and testing of such service, and for the measurement thereof; prescribe or approve reasonable rules, regulations, specifications, and standards to secure the

accuracy of all meters and appliances for measurement; and provide for the examination and testing of any and all appliances used for the measurement of any service of any public utility.

Section 413. Proper Service and Facilities Established on Complaint.—Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this act, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public, and shall fix the same by its order or regulation.

Section 414. Copies of Service Contracts, Etc., to Be Filed with Commission.—Any public utility shall, when required by the commission, file with the commission verified copies of any and all contracts, writings, agreements, leases, arrangements, or other engagements, in relation to its public service, entered into by such public utility with any person, corporation, State government, or the Federal Government, or any branch or subdivision thereof, or any other public utility.

Section 415. Testing of Appliances for Measurement of Service.—Every public utility, furnishing service upon meter or other similar measurement, shall provide, and keep in and upon the premises of such public utility, suitable and proper apparatus, to be approved from time to time and stamped or marked by the commission, for testing and proving the accuracy of meters furnished by such public utility for use; and by which apparatus every meter may be tested, upon the written request of the consumer to whom the same shall be furnished, and in the presence of the consumer, if he shall so desire. If the meter so tested shall be found to be accurate, within such commercially reasonable limits as the commission may fix for such meters, a reasonable fee, to be fixed by the commission, sufficient to cover the cost of such test, shall be paid by the consumer requiring such test; but, if not so found, then the cost thereof shall be borne by the public utility furnishing the meter.

Section 416. Reports of Accidents. — Every public utility shall give immediate notice to the commission of the happening of any accident in or about, or in connection with, the operation of its service and facilities, wherein any person shall have been killed or injured,

and furnish such full and detailed report of such accident, within such time and in such manner as the commission shall require. Such report shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report.

Section 417. Public Letting of Contracts. — Whenever the commission deems that the public interest so requires, it may direct, by regulation or order, that any public utility shall award contracts or agreements for the construction, improvement, or extension, of its plant or system to the lowest responsible bidder, after a public offering has been made, after advertisement and notice: Provided, That any such public utility may participate as a bidder in any such public offering. The commission may prescribe regulations relative to such advertisement, notice, and public letting.

Section 418. Construction and Installation of Facilities; Limitations.—If a bona fide cooperative association has been organized to furnish light or power service to its stockholders or members only, on a nonprofit basis, and has filed with the commission a map of the territory to be served by such association, and a statement verified by oath or affirmation showing that a majority of the prospective customers in the area are included in the project, no public utility shall begin the construction or installation of any new plant or system, or the construction or installation of any extension, improvement, or addition to its existing plant or system for furnishing light or power service within said territory, until the expiration of six months from the date of the filing of such map and statement. In the event such association has entered into a loan agreement with any Federal agency for the financing of its proposed system, and has given written notice thereof to the commission, no public utility shall begin any such construction or installation within said territory until the expiration of twelve months from the date of said loan agreement.

Section 419. Full Crews. — After reasonable notice and hearing had upon its own motion, or upon complaint, the commission may, by order, require any common carrier to employ such number of men upon any of its facilities as, in the judgment of the commission, is requisite for the safe and efficient operation of such facilities.

Section 420. Burden of Proof in Proceedings Involving Service or Facilities.—In any proceeding upon the motion of the commission, involving the service or facilities of any public utility, the burden of proof to show that the service and facilities involved are adequate, efficient, safe, and reasonable shall be upon the public utility.

## ARTICLE V

## ACCOUNTING AND BUDGETARY MATTERS

Section 501. Mandatory Systems of Accounts.—The commission may, after reasonable notice and hearing, establish systems of accounts (including cost finding procedures) to be kept by public utilities, or may classify public utilities and establish a system of accounts for each class, and prescribe the manner and form in which such accounts shall be kept. Every public utility shall establish such systems of accounting, and shall keep such accounts in the manner and form required by the commission. The accounting system of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, as far as practicable, to the system prescribed by such Federal regulatory body: Provided, That the commission may require any such public utility to keep and maintain supplemental or additional accounts to those required by any such regulatory body.

Section 502. Continuing Property Records. — The commission may require any public utility to establish, provide, and maintain as a part of its system of accounts, continuing property records, including a list or inventory of all the units of tangible property used or useful in the public service, showing the current location of such property units by definite reference to the specific land parcels upon which such units are located or stored; and the commission may require any public utility to keep accounts and records in such manner as to show, currently, the original cost of such property when first devoted to the public service, and the reserve accumulated to provide for the depreciation thereof.

Section 503. Depreciation Accounts; Reports.—(a) Every public utility shall carry on its books or records of account, proper and reasonable sums representing the annual depreciation on its property used or useful in the public service, which sums shall be based upon the average estimated life of each of the several units or classes of depreciable property. The commission, by appropriate order, after hearing, may establish for each class of public utilities, the units of depreciable property, the loss upon the retirement of which shall be charged to the depreciation reserve.

(b) Every public utility shall file with the commission, at such times and in such form as the commission may prescribe, statements setting forth the details supporting its computation of annual depreciation, as recorded on the books or records of accounts of the public utility. If the commission, upon review of such statements, is of the opinion that the amount of annual depreciation so recorded by any public utility is not

reasonable and proper, it may, after hearing, require that provision be made for annual depreciation in such sums as may be found by it to be reasonable and proper. In making its findings, the commission shall give consideration to the experience of the public utility, and the predecessors of the public utility in accumulating depreciation reserves, the retirements actually made, and such other factors as may be deemed relevant.

(c) The commission shall not be bound in rate proceedings to accept, as just and reasonable for rate-making purposes, estimates of annual depreciation established under the provisions of this section, but in such rate proceedings it may give consideration to statements submitted hereunder, in addition to such other factors as may be relevant.

Section 504. Records and Accounts to Be Kept in Commonwealth.—Every public utility shall keep such books, accounts, papers, records, and memoranda, as shall be required by the commission, in an office within this Commonwealth, and shall not remove the same, or any of them, from the Commonwealth, except upon such terms and conditions as may be prescribed by the commission; but the provisions of this section shall not apply to a public utility of another state, engaged in interstate commerce, whose accounts are kept at its principal place of business without the Commonwealth, in the manner prescribed by any Federal regulatory body: Provided, That such public utility, when required by the commission, shall furnish to the commission, within such reasonable time as it shall fix, certified copies of its books, accounts, papers, records, and memoranda relating to the business done by such public utility within this Commonwealth.

Section 505. Burden of Proof in Proceedings Involving Accounts.—The burden of proof to justify every accounting entry questioned by the commission shall be upon the public utility making, authorizing, or requiring such entry, and the commission may suspend any charge or credit pending submission of such proof by such public utility.

Section 506. Budgets of Public Utilities.—(a) The commission may, by regulation, require any class of public utilities, except common carriers, to file proposed budgets with the commission on or before the first day of each budgetary period, showing the amount of money which each public utility within such class, will in its judgment, expend during the budgetary period for payment of salaries of executive officers, donations, advertising, lobbying expenses, entertainment, political contributions, expenditures, and major contracts for the sale or purchase of facilities, and all items covering or contemplating any payment to any affiliated interest for

advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal, or other services. Adjustments or additions to any such budget may be made from time to time by filing supplementary budgets with the commission. When any such budget or supplemental budget has been filed, the commission may examine into and investigate the same to determine whether any or all of the contemplated expenditures are unreasonable or contrary to the public interest and if after reasonable notice and hearing, it shall so determine, it shall make its findings and order in writing rejecting the same or any part thereof.

(b) Upon such rejection, the public utility concerned shall not make further expenditures or payments under the budget or part thereof rejected, and no expenditures at any time made under such rejected budget, or part thereof, shall be allowed as an operating expense, or capital expenditure in any rate or valuation proceeding, or in any other proceeding or hearing before the commission, unless and until the propriety thereof shall have been established to the satisfaction of the commission, and any such finding or order shall remain in full force and effect, unless and until such finding or order shall be vacated, modified or set aside by the commission, or upon an appeal, as provided in this act.

(c) The filing of any budget, its examination, investigation, or determination by the commission, under this section, shall not bar or estop the commission from determining, in any rate valuation or other proceeding, whether any or all of the expenditures made under any budget or supplemental budget are reasonable or commensurate with the service or facilities received.

Section 507. Inspection of Books and Records by Commission.—The commission shall at all times have access to, and may designate any of its employes to inspect and examine, any and all accounts, records, books, maps, inventories, appraisals, valuations, or other reports, documents, and memoranda kept by public utilities, or prepared or kept for them by others; and the commission may require any public utility to file with the commission, copies of any or all of such accounts, records, books, maps, inventories, appraisals, valuations, or other reports, documents, and memoranda.

Section 508. Municipal Corporations; Accounts; Reports.—The provisions of section five hundred one, five hundred three, and five hundred seven of this act shall apply to any municipal corporation rendering or furnishing to the public any public utility service.

## ARTICLE VI

### SECURITIES AND OBLIGATIONS

Section 601. Registration of Securities to Be Issued or Assumed.—(a) Under such regulations as the com-

mission may prescribe, every public utility, before it shall execute, cause to be authenticated, deliver, or make any change in any term or condition of, any stock certificate, or other evidence of equitable interest in itself, or any bond, note, trust certificate, or other evidence of indebtedness of itself, any or all of which acts are hereinafter included in the term "issuance of securities," shall have filed with the commission, and shall have received from the commission, notice of registration of a document to be known as a securities certificate: Provided, however, That the commission, by regulation or order, may exempt public utilities from the requirements of this paragraph as to any class of securities: And provided further, That neither (1) the execution, authentication, or delivery of securities to replace identical securities lost, mutilated, or destroyed while in the ownership of a bona fide holder-for-value, who properly indemnifies the public utility therefor, nor (2) the execution, authentication, or delivery of securities in exchange for the surrender of identical securities, solely for the purpose of registering or facilitating changes in the ownership thereof between bona fide holders-for-value, which surrendered securities are thereupon cancelled, nor (3) the delivery from the treasury of the public utility of securities previously reacquired from bona fide holders-for-value and held alive, shall be deemed an issuance of securities under this subsection.

(b) Under such regulations as the commission may prescribe, every public utility, before it shall assume primary or contingent liability for the payment of any dividends upon any stocks, or of any principal or interest of any indebtedness, created or incurred by any other person or corporation, any or all of which acts are hereinafter included in the term "assumption of securities," shall have filed with the commission, and shall have received from the commission, notice of registration of a document to be known as a Securities Certificate: Provided, however, That the requirements of this paragraph shall not apply to an assumption of securities if the commission shall have approved the acquisition of all of the property of the issuing company by the assuming company, as provided in paragraph (e) of section two hundred two of this act.

Section 602. Contents of Securities Certificates.— Every securities certificate shall be verified by oath or affirmation, and shall be in such form, and contain such information pertinent to a proposed issuance or assumption of securities, as the commission may require by its regulations. If two or more issues of securities are proposed to be issued or assumed by a public utility, a separate securities certificate shall be submitted to the commission for the issuance or assumption of each se-



curity issue. Whenever the commission shall receive a securities certificate, which in its opinion does not contain a detailed exposition of all facts pertinent to the transaction involved, it may require the public utility submitting such securities certificate to submit further information, under oath or affirmation, or it may conduct such investigation, hold such hearings, and subpoena and examine such witnesses, books, accounts, and records as it may deem proper. All information so obtained shall become a part of the securities certificate.

Section 603. Registration and Rejection of Securities Certificates; Appeals.—(a) Upon the submission or completion of any securities certificate, as hereinbefore provided, the commission shall register the same if it shall find that the issuance or assumption of securities in the amount, of the character, and for the purpose therein proposed, is necessary or proper for the present and probable future capital needs of the public utility filing such securities certificate; otherwise it shall reject the securities certificate. The commission may consider the relation which the amount of each class of securities issued by such public utility bears to the amount of other such classes, the nature of the business of such public utility, its credit and prospects, and other relevant matters. If, at the end of thirty days after the filing of a securities certificate, no order of rejection has been entered, such certificate shall be deemed, in fact and law, to have been registered: Provided, That the commission may, by written order, giving reasons therefor, extend the thirty day consideration period. Such registration or rejection may be as to all or part of the securities to which such securities certificate pertains, and any registration may be made subject to such conditions as the commission may deem reasonable in the premises. No registration, however, shall be construed to imply any guaranty or obligation on the part of the Commonwealth of Pennsylvania as to such securities, nor shall it be taken as requiring the commission, in any proceeding brought before it for any purpose, to fix a valuation which shall be equal to the total of such securities and any other outstanding securities of such public utility, or to approve or prescribe a rate which shall be sufficient to yield a return on such securities or the total securities of such public utility. Written notice of the registration or rejection of any Securities Certificate shall be served by registered mail upon the public utility, which notice shall be under the seal of the commission and signed by its secretary or other designated officer: Provided, however, That every notice of rejection shall contain a statement of the specific reasons for rejection. Both registered and rejected securities certificates shall be retained in the files of the commission.

(b) At any time within thirty days after the commission shall have rejected a securities certificate, the public utility submitting such securities certificate may submit amendments thereto, verified by oath or affirmation, whereupon the commission shall again consider and act upon the securities certificate, as provided in paragraph (a); but a securities certificate which shall have been twice rejected by the commission shall not be amended again. The registration by the commission of a securities certificate, either as completed or amended, shall bind the public utility submitting such securities certificate to issue or assume the securities only under the terms, and for the purpose recited in such securities certificate and the issuance or assumption of the securities under any other terms, or for any other purpose, shall be unlawful.

(c) Appeals from the action of the commission upon any securities certificates may be taken in the same manner as hereinafter provided in this act for the taking of appeals from orders of the commission. The completed securities certificate shall constitute the record to be certified to the appellate court in such appeal.

Section 604. Unauthorized Securities May Be Declared Void.—In addition to any penalty provided elsewhere in this act for any violation of this article, the commission, after due consideration of the public interest, may declare void any securities issued, or any assumption of securities made in violation of this article: Provided, however, That any such declaration shall not be construed as a bar to the recovery, by an innocent holder-for-value of such securities, of any losses sustained by reason of the wrongful acts of the issuing or assuming public utility.

## ARTICLE VII

### RELATIONS WITH AFFILIATED INTERESTS

Section 701. Contracts for Services.—(a) Within thirty days after the effective date of this act, every public utility having in force any contract with an affiliated interest for the furnishing to such public utility of any management, supervisory, purchasing, construction, engineering, financing, or other services, shall file a copy of such contract, or if oral, a complete statement of the terms and conditions thereof, with the commission.

(b) Every public utility which shall hereafter enter into any such contract, or which shall change any such existing contract, shall file a copy of such contract with the commission within ten days after its execution or change.

(c) The commission shall have authority at any time to investigate every such contract filed in accordance

with this section, and, if after reasonable notice and hearing, it shall determine that the amounts paid or payable thereunder are in excess of the reasonable cost of furnishing the services provided for in the contract, or that such services are not reasonably necessary and proper, it shall order such amounts, in so far as found excessive, to be stricken from the books of account of the public utility as charges to fixed capital, or operating expenses, as the case may be, and shall not consider such amounts in any proceeding. In any proceeding involving such amounts, the burden of proof to show that such amounts are not in excess of the reasonable cost of furnishing such services, and that such services are reasonable and proper, shall be on the public utility.

Section 702. Other Contracts; Donations.—(a) No public utility shall, without the prior approval of the commission, make effective or modify any contract with an affiliated interest, other than a contract for services as referred to in section seven hundred one, or, by way of donation, give to, or receive from, an affiliated interest, any property, money, security, right or thing. Application for such approval shall be in writing, and shall be in such form, and contain such information, as the commission may prescribe by its regulations. The commission may exempt from the requirements of this section any class of contracts or donations: Provided, however, That if the commission shall have granted its approval to any public utility to contract with an affiliated interest for the loan of sums of money at intervals, or for any continuing or serial transactions, the commission may, after hearing, and upon a finding of public interest, withdraw its approval thereof, and all portions of the contract made pursuant thereto, then executory, shall be void, and all transactions thereunder, other than payment by either party for value already received, shall be unlawful.

Section 703. Contracts to Be in Writing; Cost Data.—The commission may, by regulation or order, require any contract with an affiliated interest to be in writing. The commission may also, by regulation or order, require that any contract with an affiliated interest shall contain a provision whereby the affiliated interest shall agree to furnish to the public utility, at the time of billing such public utility for any service, property, security, right, or thing, under such contract, a detailed statement of the cost to the affiliated interest of such service, property, security, right, or thing.

Section 704. Existing Contracts to Be Filed.—Within ninety days after the effective date of this act, every public utility having a contract with an affiliated interest, other than a contract for services, as referred to in

section seven hundred and one, which was entered into before such date, and was wholly or partially executory on such date, shall file a copy of such contract, or, if oral, a complete statement of the terms and conditions thereof, with the commission: Provided, however, That the commission may exempt public utilities from the requirements of this section as to any class of such contracts.

Section 705. Effect on Rates.—No approval granted to any public utility by the commission, with respect to any contract with, or any donation to, or from, an affiliated interest, and no exemption granted by any regulation or order of the commission with respect thereto, shall bind or require the commission, in fixing the rates of such public utility, to take into consideration any payment made, or any property, right, or thing received by such public utility, under any contract entered into, extended, or amended, or donation given or received, pursuant to such approval or exemption. The commission shall not be bound, in fixing the rates of any public utility, to take into consideration any unreasonable payment made by such public utility under any contract with an affiliated interest.

Section 706. Contracts in Violation of Act Void.—Every contract with an affiliated interest, made effective or modified in violation of any provision of this act, or of any regulation or order of the commission made under this act, shall be void; and any purchase, sale, payment, lease, loan, or exchange of any service, property, money, security, right, or thing under such contract, or under any contract with an affiliated interest, the terms of which shall have been breached by the affiliated interest, shall be unlawful.

## ARTICLE VIII

### CONTRACT CARRIERS BY MOTOR VEHICLE AND BROKERS

Section 801. Declaration of Policy.—It is hereby declared to be the policy of the Legislature to regulate in this act the service of common carriers by motor vehicle and forwarders in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in such service, and among such carriers and forwarders in the public interest; to promote safe, adequate, economical, and efficient service by common carriers by motor vehicle and forwarders, and just and reasonable rates therefor, without unjust discrimination, and unfair or destructive practices; to improve the relations between, and coordinate the service and regulation of, common carriers by motor vehicle, forwarders, and other carriers; to develop and preserve a safe highway transportation system properly adapted to the needs of the commerce

of the Commonwealth of Pennsylvania and insure its availability between all points of production and markets of this Commonwealth. It is hereby found as a fact, after due investigation and deliberation, that the service of common carriers by motor vehicle, forwarders, contract carriers by motor vehicle, and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, are so closely interwoven and interdependent, and so directly affect each other, that in order effectively to regulate such common carriers by motor vehicle and forwarders, and to provide a proper and safe highway transportation system in the public interest, it is necessary to regulate the service of such contract carriers by motor vehicle and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, in the manner set forth in this article.

Section 802. Regulation of Contract Carriers and Brokers Required.—The commission shall have the power, and its duty shall be:

(a) To regulate contract carriers by motor vehicle, as provided in this article, and to that end the commission may prescribe minimum rates which are just and reasonable, and establish requirements with respect to uniform systems of accounts, records, reports, preservation of records, safety of service and equipment, and insurance, and

(b) To regulate brokers, as provided in this article, and to that end the commission may prescribe requirements with respect to licensing, financial responsibility, accounts, reports, records, services, and practices of any such brokers.

Section 803. Classification of Contract Carriers and Brokers.—The commission may from time to time establish such classifications of contract carriers by motor vehicle, or brokers, as the special nature of the service of such carriers or brokers shall require; and such rules, regulations, and requirements, consistent with the provisions of this article, to be observed by such carriers or brokers, so classified or grouped, as the commission deems necessary or desirable in the public interest.

Section 804. Permits Required of Contract Carriers.—(a) No person or corporation shall engage in the business of a contract carrier by motor vehicle unless there is in force with respect to such carrier a permit issued by the commission, authorizing such person or corporation to engage in such business: Provided, That, if any such carrier, or a predecessor in interest, was rendering service as a bona fide contract

carrier by motor vehicle upon the effective date of this act, over any route or within the territory for which application is made, and has rendered such service since that date, or if engaged in furnishing only seasonal service, was doing so on such date during the season ordinarily covered by his service, the commission shall issue such permit without further proceedings, if application for such permit is made to the commission as provided in paragraph (b) of this section and within one hundred twenty days after the effective date of this act. Otherwise, the application for such permit shall be determined by the commission in accordance with the provisions of paragraph (b) of this section. During the aforesaid period of one hundred twenty days, and pending the determination of any such application, the continuance of such service of the applicant shall be lawful.

(b) Every application for such permit shall be made to the commission in writing, be verified by oath or affirmation, and shall be in such form and contain such information as the commission may require by its regulations. A permit shall be issued by the commission to any qualified applicant therefor authorizing in whole or in part the service covered by the application, if it appears from the application, or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this article and the lawful orders or regulations of the commission thereunder, and that the proposed service to the extent authorized by the permit will be consistent with the public interest and the policy declared in section eight hundred one of this act; otherwise such application shall be denied. The commission shall specify in the permit the business of the contract carrier by motor vehicle covered thereby, and the route and area required in serving the customers in such business, and shall attach to it, at the time of issuance, and from time to time thereafter, such reasonable terms, conditions, flexibility, and limitations consistent with the character of the holder as are necessary to carry out, with respect to the service of such carrier, the requirement established by the commission under section eight hundred two of this act.

Section 805. Dual Operation by Motor Carriers.—After the effective date of this act, no person or corporation shall at the same time hold a certificate of public convenience as a common carrier by motor vehicle and a permit as a contract carrier by motor vehicle, unless for good cause shown, the commission shall find that such certificate and permit may be held consistently with the public interest and with the policy declared in section eight hundred one of this act.

Section 806. Licenses and Financial Responsibility Required of Brokers.—(a) No person or corporation shall engage in the business of a broker in this Commonwealth unless such person holds a brokerage license issued by the commission: Provided, however, That no such person or corporation, by virtue of a brokerage license, shall render service as a motor carrier unless he holds a certificate of public convenience or permit, as the case may be. It shall be unlawful for any broker to employ any motor carrier who or which is not the lawful holder of an effective certificate of public convenience or permit.

(b) Every application for a brokerage license shall be made to the commission in writing, be verified by oath or affirmation, and shall be in such form and contain such information as the commission may, by its regulations, require. A brokerage license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the service covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this act and the lawful orders and regulations of the commission thereunder, and that the proposed service, to the extent authorized by the license, will be consistent with the public interest and the policy declared in section eight hundred one of this act; otherwise such application shall be denied. Any broker rendering service upon the effective date of this act may continue such service for a period of one hundred twenty days thereafter without a license, and if application for such license is made within such period, the broker may, under such regulations as the commission shall prescribe, continue such service until otherwise ordered by the commission.

(c) The commission shall prescribe reasonable regulations to be observed by any broker for the protection of passengers or property transported by motor vehicle, and no brokerage license shall be issued or remain in force unless the holder thereof shall have furnished a bond or other security approved by the commission, in such form and amount as will insure the financial responsibility of the broker and the transportation of passengers or property in accordance with contracts, agreements or arrangements therefor.

Section 807. Transferability of Permits and Licenses.—Except as hereafter provided in section eight hundred eight of this act, any permit or brokerage license issued under this article may be transferred pursuant to such regulations as the commission may prescribe.

Section 808. Regulation of Securities, Etc., of Contract Carriers.—(a) Contract carriers by motor vehicle,

with respect to the issuance or assumption of securities, shall be subject to the provisions of article six of this act: Provided, That the commission may exempt contract carriers by motor vehicle from any or all of the requirements of article six of this act as to any class of securities.

(b) Contract carriers by motor vehicle, with respect to the acquisition or transfer of tangible and intangible property, shall be subject to the provisions of paragraph (e) of section two hundred two of this act.

(c) Contract carriers by motor vehicle shall be subject to the requirements of section nine hundred fifteen of this act, with respect to surety bonds, insurance, and qualifications as self-insurers.

Section 809. Copies of Contracts to Be Filed with Commission.—(a) It shall be the duty of every contract carrier by motor vehicle to reduce to writing and file with the commission all contracts, or copies thereof, pertaining to the service of such carrier, and such schedules or other information pertaining to the rates of such carrier, in such form and detail, and at such times, as the commission may require. No such contract carrier shall engage in the transportation of passengers or property, unless the minimum charges for such transportation by such carrier have been filed with the commission, or copies of all contracts reduced to writing and filed with the commission. No reduction shall be made in any charge either directly or by means of any change in any rule, regulation or practice affecting such charge, except after sixty (60) days' notice of the proposed change filed in such form and manner as the commission may by regulation prescribe; but the commission may, in its discretion, allow such change upon less notice. Such notice shall plainly state the change proposed to be made and the time when such change will become effective. No such carrier shall demand, charge, or collect a less compensation for such transportation than the charges filed in accordance with this section, as affected by any rule, regulation, or practice so filed, or as prescribed by the commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special service, facilities, or privileges, or by any other device whatsoever, to charge, accept or receive less than the minimum charge so filed or prescribed.

(b) Whenever any such contract carrier shall file with the commission any schedule or contract stating a reduced charge for the transportation of passengers or property\* directly or by means of any rule, regulation or practice, the commission is hereby authorized and empowered, upon complaint, or upon its own mo-

\* "property" in the original.



tion, at once and if it so orders, without answer or other formal pleading, but upon reasonable notice, to enter upon a hearing concerning the reasonableness and justness of such charge, rule, regulation, or practice; and pending such hearing and decision thereon, the commission, by filing with such schedule or contract, and delivering to the carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract, or defer the use of such charge, rule, regulation or practice for a period of ninety (90) days; and if the proceeding has not been concluded and a final order made within such period, the commission may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred eighty (180) days beyond the time when it would otherwise become effective; and after hearing, whether completed before or after the charge, rule, regulation, or practice becomes effective, the commission may make such order with reference thereto, as would be proper in a proceeding instituted after it had become effective.

Section 810. Minimum Rates Fixed and Practices Prescribed on Complaint.—Whenever, after hearing upon complaint or its own motion, the commission finds that any rate of any contract carrier by motor vehicle, or any regulation or practice of any such carrier affecting such rate for the transportation of passengers or property, contravenes the policy declared in section eight hundred one of this act, the commission may prescribe such minimum rates or such regulations or practices as in its judgment may be just and reasonable to promote the policy declared in such section. Such minimum rates or such regulations or practices so prescribed by the commission shall not be inconsistent with the policy declared in section eight hundred one of this act, and the commission shall give due consideration to the cost of the service of such carriers, and to the effect of such minimum rates or such regulations or practices upon the transportation of passengers or property by such carriers, and diversion of the business of any common carrier by motor vehicle to other forms of transportation. All complaints to the commission under this section shall state fully the facts complained of and the reasons for such complaints, and shall be made under oath or affirmation.

Section 811. Accounts; Records; and Reports.—(a) The commission is hereby authorized to require annual, periodical, or special reports from all contract carriers by motor vehicle and brokers; to prescribe the manner and form in which such reports shall be made; and to require from such carriers and brokers, specific answers to all questions upon which the commission may deem

information to be necessary. Such reports shall be under oath or affirmation whenever the commission so requires.

(b) The commission may prescribe the forms of any and all accounts, records, and memoranda, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, to be kept by contract carriers by motor vehicle, and brokers, and the length of time such accounts, records, and memoranda shall be preserved; and whenever the commission shall so prescribe, it shall be the duty of every contract carrier by motor vehicle, and broker, affected to comply therewith.

(c) In every case of a contract carrier by motor vehicle, or broker, subject to the jurisdiction of any Federal regulatory body, the systems of accounts, records, and memoranda prescribed by the commission shall conform, so far as practicable, to those prescribed by such regulatory body.

Section 812. Designation of Agent for Service of Notice and Process.—Every contract carrier by motor vehicle, and broker, shall file with the commission a designation in writing of the name and post-office address of a person within the Commonwealth upon whom service of any notice, process, or order may be made under this act. Such designation may from time to time be changed by like writing similarly filed. Service of any notice, process, or order in proceedings under this article may be made by personal service upon a contract carrier by motor vehicle, or broker, or upon the person so designated by such carrier or broker, or by registered mail to such carrier or broker, or to such person at the address so filed.

Section 813. Temporary Permits and Licenses.—The commission, under such regulations as it shall prescribe, may, without hearing, in proper cases, consider and approve applications for permits and licenses, and in emergencies grant temporary permits and licenses under this article, pending action on permanent permits or licenses; but no application shall be denied without right of hearing thereon being tendered the applicant.

## ARTICLE IX

### GENERAL PROVISIONS AND POWERS OF COMMISSION

Section 901. Administrative Authority of Commission; Regulations.—The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with the law, as may be necessary or proper in the exercise of its powers or for the performance of its duties under this act.

Section 902. Commission to Enforce Act.—In addition to any powers hereinbefore expressly enumerated in this act, the commission shall have full power and authority, and it shall be its duty, to enforce, execute, and carry out, by its regulations, orders, or otherwise, all and singular the provisions of this act, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this act shall not exclude any power which the commission would otherwise have under any of the provisions of this act.

Section 903. Enforcement Proceedings by Commission.—Whenever the commission shall be of opinion that any person or corporation, including a municipal corporation, is violating, or is about to violate, any provisions of this act; or has done, or is about to do, any act, matter, or thing herein prohibited or declared to be unlawful; or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform any duty enjoined upon it by this act; or has failed, omitted, neglected or refused, or is about to fail, omit, neglect, or refuse to obey any lawful requirement, regulation or order made by the commission; or any final judgment, order, or decree made by any court, then and in every such case the commission may institute in the court of common pleas of Dauphin County, injunction, mandamus, or other appropriate legal proceedings, to restrain such violations of the provisions of this act, or of the regulations, or orders of the commission, and to enforce obedience thereto; and such court of common pleas is hereby clothed with exclusive jurisdiction throughout the Commonwealth to hear and determine all such actions. No injunction bond shall be required to be filed by the commission. Such persons, corporations, or municipal corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding, or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken as in other civil actions.

Section 904. Enforcement Proceedings by Attorney General.—The Attorney General, in addition to the exercise of the powers and duties now conferred upon him by law, shall also, upon request of the commission, or upon his own motion, proceed in the name of the Commonwealth, by mandamus, injunction, or quo warranto, or other appropriate remedy at law or in equity, to restrain violations of the provisions of this act, or of the

regulations or orders of the commission, or the judgments, orders, or decrees of any court, or to enforce obedience thereto.

Section 905. Reports by Public Utilities.—The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce. The commission may require any public utility to file with it a copy of any report filed by such public utility with any Federal department or regulatory body. All reports shall be under oath or affirmation when required by the commission.

Section 906. Duty to Furnish Information to Commission; Cooperation in Valuing Property.—Every public utility shall furnish to the commission, from time to time, and as the commission may require, all maps, profiles, reports of engineers, books, papers, records, and other documents or memoranda, or copies of any and all of them, in aid of any inspection, examination, inquiry, investigation, or hearing, or in aid of any determination of the value of its property, or any portion thereof, and shall cooperate with the commission in the work of the valuation of its property, or any portion thereof, and shall furnish any and all other information to the commission, as the commission may require, in any inspection, examination, inquiry, investigation, hearing, or determination of such value of its property, or any portion thereof.

Section 907. Adherence to Regulations and Orders of Commission and Courts.—Every public utility, its officers, agents, and employes, and every other person or corporation subject to the provisions of this act, affected by or subject to any regulations or orders of the commission, or of any court, made, issued, or entered under the provisions of this act, shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof, so long as the same shall remain in force.

Section 908. Inspection of, and Access to, Facilities and Records of Public Utilities.—The commission shall have full power and authority, either by or through its members, or duly authorized representatives, whenever it shall deem it necessary or proper in carrying out any of the provisions of this act, or its duties under this act, to enter upon the premises, buildings, machinery, system, plant, and equipment, and make any inspection, valuation, physical examination, inquiry, or investigation of any and all plant and equipment, facilities, property, and pertinent records, books, papers, memo-

randa, documents, or effects whatsoever, of any public utility, and to hold any hearing for such purposes. In the performance of such duties, the commission may have access to, and use any books, records, or documents in the possession of, any department, board, or commission of the Commonwealth, or any political subdivision thereof.

Section 909. Certified Copies of Documents, Regulations, and Orders Admissible in Evidence.—Copies of all official documents, regulations, and orders filed or deposited in the office of the commission, certified by the secretary under the official seal of the commission to be true copies of the originals, shall be evidence in like manner as the originals, in all matters before the commission and in the courts of this Commonwealth.

Section 910. Designation of Statutory Agent.—Every public utility shall file with the commission a designation in writing of the name and post-office address of a person within the Commonwealth upon whom service of any notice, order, or process may be made under this act. Such designation may, from time to time, be changed by like writing similarly filed.

Section 911. Contracts Between Public Utilities and Municipalities.—No contract or agreement between any public utility and any municipal corporation shall be valid unless filed with the commission at least thirty days prior to its effective date: Provided, That upon notice to the municipal authorities, and the public utility concerned, the commission may, prior to the effective date of such contract or agreement, institute proceedings to determine the reasonableness, legality, or any other matter affecting the validity thereof. Upon the institution of such proceedings, such contract or agreement shall not be effective until the commission grants its approval thereof: Provided further, That nothing in this section shall be construed to apply to contracts or agreements between any public utility and any municipal corporation which provide only for the furnishing of service at the regularly filed and published tariff rates.

Section 912. Regulation of Manufacture, Sale, or Lease of Appliances.—It shall be unlawful for any public utility engaged in the manufacture, sale, or lease of any appliance or equipment offered by such public utility for sale to the public:

(a) To discontinue service to any consumer for failure of such consumer to pay the whole, or any installment, of the purchase price, or rental, of any appliance or equipment sold to such consumer.

(b) To apply to the purchase price or rental, or any part thereof, of any appliance or equipment purchased by, or leased to, a consumer of the service of the public

utility, any deposit or other moneys of the consumer in the possession of the public utility: Provided, that this restriction shall not apply to any claims of the public utility against such consumer when such claims arise from damages to meters or other facilities used to measure and ascertain the quantity of service rendered by the public utility.

(c) To employ in the manufacture, sale, or lease of any such appliance or equipment, any property used in, or revenue derived from, the rendering of service to the public, unless separate accounts as to the property used and the costs incurred by, and the revenue derived from, the manufacture, lease, or sale of such appliance or equipment are adopted, used, and kept by the public utility.

(d) To employ in the manufacture, sale, or lease of any such appliance or equipment, the service of any officer or employe engaged in rendering service to the public, unless separate accounts as to the amount paid to such officer or employe, while engaged in the manufacture, lease or sale of such appliance or equipment, and whether any amount be salary, bonus, commission, or expense are adopted, used, and kept by the public utility.

Section 913. Joint Hearings and Investigations; Reciprocity.—(a) The commission shall have full power and authority to make joint investigations, hold joint hearings within or without the Commonwealth, and issue joint or concurrent orders in conjunction or concurrence with any official, board, commission, or agency of any state or of the United States, whether in the holding of such investigations or hearings, or in the making of such orders, the commission shall function under agreements or compacts between states or under the concurrent power of states to regulate the interstate commerce, or as an agency of the Federal Government, or otherwise.

(b) The commission shall have full power and authority to arrange reciprocity of treatment of public utilities and contract carriers by motor vehicle of this Commonwealth by regulatory bodies, under regulatory laws of other states, and to that end the commission is hereby vested with power to impose upon public utilities and contract carriers by motor vehicle of other states, the same penalties, restrictions, and regulations as are imposed upon public utilities and contract carriers by motor vehicle of this Commonwealth by the regulatory body of such other states upon public utilities and contract carriers by motor vehicle of this Commonwealth, when operating into, out of, or through such other states.

Section 914. Investigation of Interstate Rates, Facilities, and Service.—The commission may investigate

the interstate rates, traffic facilities, or service of any public utility within this Commonwealth, and when such rates, facilities or service are, in the determination of the commission, unjust, unreasonable, discriminatory or in violation of any Federal law, or in conflict with the rulings, orders or regulations of any Federal regulatory body, the commission may apply, by petition to the proper Federal regulatory body, for relief, or may present to the proper Federal regulatory body all facts coming to its knowledge as to the violation of the rules, orders, or regulations of such regulatory body, or as to the violation of the particular Federal law.

Section 915. Motor Carriers to Carry Insurance Unless Permitted to Be Self-Insurers.—The commission may, as to motor carriers, prescribe, by regulation or order, such requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance, or the qualifications and conditions under which such carriers may act as self-insurers with respect to such matters.

Section 916. Inspectors for Enforcement of Provisions Pertaining to Motor Carriers.—The commission may employ such inspectors, as it may deem necessary, for the purpose of enforcing the provisions of this act. Such inspectors are hereby declared to be peace officers, and are hereby given police power and authority throughout the Commonwealth to arrest on view, without writ, rule, order, or process, any person operating as a motor carrier or common carrier by airplane without a certificate or permit required by this act. Such inspectors are hereby given authority to stop vehicles on the highways of this Commonwealth, and to inspect the cargoes of such vehicles, and any receipts or bills of lading pertaining to such cargoes.

Section 917. Effect on Existing Liabilities and Rights of Action.—Except as otherwise expressly provided, none of the powers or duties conferred or imposed by this act upon the commission, and none of the regulations, orders, certificates, permits, or licenses made, registered, or issued by the commission, and none of the duties, powers, or limitations of the powers conferred or imposed by this act upon public utilities, contract carriers by motor vehicle, or brokers, or the performance or exercise thereof, shall be construed in anywise to abridge or impair any of the obligations, duties, or liabilities of any public utility, contract carrier by motor vehicle, or broker in equity or under the existing common or statutory law of the Commonwealth; but all such obligations, duties, and liabilities shall be and remain as heretofore. And except as otherwise pro-

vided, nothing in this act contained shall in any way abridge or alter the existing rights of action or remedies in equity or under the common or statutory law of the Commonwealth, it being the intention that the provisions of this act shall be cumulative and in addition to such rights of action and remedies.

Section 918. Effect of Certificates, Licenses, and Permits.—The issuing or registration by the commission of any certificate, license, or permit whatsoever, under the provisions of this act, or any finding, determination, or order made by the commission refusing or granting such certificates, licenses, or permits, shall not be construed to revive or validate any lapsed, terminated, invalidated, or void powers, franchises, rights, or privileges; or to enlarge or add to the rights, powers, franchises, or privileges contained in any charter, or in the grant of any franchise, or any supplement or amendment to any charter, or to give or remit any forfeiture. The registration of any securities certificates shall not be deemed to require the commission, in subsequently determining the rates to be charged for the service of any public utility, to provide a rate which shall be sufficient to yield a return on such securities.

Section 919. Powers of Certain Governmental Agencies Unaffected.—Nothing in this act shall be construed to impair the powers and duties of the Secretary of Internal Affairs in the exercise of the general supervision over railroads, canals, and other transportation companies vested in him by the Constitution and laws of this Commonwealth, nor shall this act, or any provision therein, be construed to deprive the Department of Health, the Sanitary Water Board, or the Water and Power Resources Board of this Commonwealth of any jurisdiction, powers or duties now vested in them, or either of them, by the laws of this Commonwealth.

Section 920. Contracts; Power of the Commission to Vary, Reform or Revise.—The commission shall have power and authority to vary, reform, or revise, upon a fair, reasonable, and equitable basis, any obligations, terms, or conditions of any contract heretofore or hereafter entered into between any public utility and any person, corporation, or municipal corporation, which embrace or concern a public right, benefit, privilege, duty, or franchise, or the grant thereof, or are otherwise affected or concerned with the public interest and the general well being of the Commonwealth.

Whenever the commission shall determine, after reasonable notice and hearing, upon its own motion or upon complaint, that any such obligations, terms, or conditions are unjust, unreasonable, inequitable, or otherwise contrary or adverse to the public interest and the general well being of the Commonwealth, the commis-



sion shall determine and prescribe, by findings and order, the just, reasonable, and equitable obligations, terms, and conditions of such contract. Such contract, as modified by the order of the commission, shall become effective thirty days after service of such order upon the parties to such contract.

Section 921. Burden of Proof in Proceedings Involving a Determination or Order of the Commission.—In any case involving any alleged violation by a public utility, contract carrier by motor vehicle, or broker of any lawful determination or order of the commission, the burden of proof shall be upon the public utility, contract carrier by motor vehicle, or broker complained against, to show that the determination or order of the commission has been complied with.

## ARTICLE X

### PROCEDURE BEFORE THE COMMISSION

Section 1001. Complaints.—The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. Any public utility, or other person, or corporation, subject to this act, likewise may complain of any regulation or order of the commission, which the complainant is or has been required by the commission to observe or carry into effect. The commission, by regulation, may prescribe the form of complaints filed under this section.

Section 1002. Service of Complaints on Parties.—Upon the filing of a complaint against any person or corporation, including a municipal corporation, the commission shall cause a copy thereof to be served upon such person, corporation, or municipal corporation, accompanied by a notice from the commission calling upon such person, corporation, or municipal corporation to satisfy the complaint, or to answer the same in writing, within such reasonable time as may be specified by the commission in such notice. Service in all hearings, investigations, and proceedings pending before the commission shall be made by registered mail as the commission may direct.

Section 1003. Fixing of Hearings.—(a) The commission shall fix the time and place of hearing, within or without the Commonwealth, if any is required, and shall serve notice thereof upon parties in interest. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.

(b) If any person, corporation, or municipal corporation complained against, within the time specified by the commission, shall satisfy the complaint, the commission by its order shall dismiss the complaint, but such person, corporation, or municipal corporation shall be relieved from responsibility only for the specific matter complained of. If such person, corporation, or municipal corporation shall not satisfy the complaint within the time specified, and it shall appear to the commission from a consideration of the complaint and answer, or otherwise, that reasonable ground exists for investigating such complaint, it shall be the duty of the commission to fix a time and place for a hearing.

Section 1004. Hearings to Be Public; Record of Proceedings.—All hearings before the commission, or its representative, shall be public, and shall be conducted in accordance with such regulations as the commission may prescribe. A full and complete record shall be kept of all proceedings had before the commission, or its representative, on any formal hearing, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney, and to introduce evidence.

Section 1005. Decisions by Commission.—After the conclusion of the hearing, the commission shall make and file its findings and order with its opinion, if any. Its findings shall be in sufficient detail to enable the court on appeal, to determine the controverted question presented by the proceeding, and whether proper weight was given to the evidence. A copy of such order, certified under the seal of the commission, shall be served by registered mail upon the person, corporation, or municipal corporation against whom it runs, or his attorney, and notice thereof shall be given to the other parties to the proceedings or their attorney. Such order shall take effect and become operative as designated therein, and shall continue in force either for a period which may be designated therein, or until changed or revoked by the commission. If an order cannot, in the judgment of the commission, be complied with within the time designated therein, the commission may grant and prescribe such additional time as, in its judgment, is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

Section 1006. Rehearing.—After an order has been made by the commission, any party to the proceedings may, within fifteen days after the service of the order, apply for a rehearing in respect of any matters determined in such proceedings and specified in the application for rehearing, and the commission may grant and

hold such rehearing on such matters. No application for a rehearing shall in anywise operate as a supersedeas, or in any manner stay or postpone the enforcement of any existing order, except as the commission may, by order, direct. If the application be granted, the commission may affirm, rescind, or modify its original order. Any order so made after such rehearing shall have the same force and effect as an original order.

Section 1007. Amendment and Rescission of Orders.

—The commission may, at any time, after notice and after opportunity to be heard as provided in the case of complaints, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders; but no such order shall affect the legality or validity of any acts done by such person, corporation, or municipal corporation before service by registered mail upon such person, corporation, or municipal corporation of the notice of such change.

Section 1008. Investigations.—The commission may, on its own motion and whenever it may be necessary in the performance of its duties, investigate and examine the condition and management of any public utility or any other person or corporation subject to this act. In conducting such investigations the commission may proceed, either with or without a hearing, as it may deem best, but it shall make no order without affording the parties affected thereby a hearing.

Section 1009. Oaths and Subpoenas.—The commission, or its representative, shall have the power, in any part of the Commonwealth, to subpoena witnesses, to administer oaths, to examine witnesses, or to take such testimony, or compel the production of such books, records, papers, and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation, or hearing, held or had by it, and to do all necessary and proper things and acts in the lawful exercise of its powers or the performance of its duties. The fees for serving a subpoena shall be the same as those paid sheriffs for similar services.

Section 1010. Depositions.—The commission, or any commissioner, or any party to proceedings before the commission, may cause the deposition of witnesses residing within or without the Commonwealth to be taken in the manner prescribed by law for taking depositions in civil actions.

Section 1011. Witness Fees.—Witnesses who are summoned before the commission shall be paid the same fees and mileage as are paid to witnesses in the courts of

record of general jurisdiction. Witnesses whose depositions are taken pursuant to the provisions of this act, and the officer taking the same, shall be entitled to the same fees as are paid for like services in such courts. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses of the commission.

Section 1012. Privilege and Immunity.—No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation or inquiry by, or hearing before, the commission or its representative, when ordered to do so, upon the ground that the testimony or evidence, book, document, paper, or account required may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any forfeiture or penalty for or on account of any act, transaction, matter, or thing concerning which he shall have been compelled, under objection, to testify or produce documentary evidence: Provided, That no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

Section 1013. Informal Hearings.—The commission may, in addition to the hearings specially provided by this act, conduct such other hearings as may be required in the administration of the powers and duties conferred upon it by this act and by other acts relating to public utilities. Reasonable notice of all such hearings shall be given the persons interested therein.

Section 1014. Notice.—Notice of all hearings, investigations, and proceedings before the commission shall be given in such manner as the commission may prescribe by regulation or order.

## ARTICLE XI

### REVIEW AND APPEALS

Section 1101. Appeals to Courts; Jurisdiction and Practice.—(a) Within thirty days after the service of any order by the commission, unless an application for a rehearing may be pending, and then within thirty days after the service of the order refusing such application, or the service of an order modifying, amending, rescinding, or affirming the original order, any party to the proceedings affected thereby may appeal therefrom to the Superior Court. Such court is hereby clothed with exclusive jurisdiction throughout the Commonwealth for the purpose of hearing and determining any and all such appeals: Provided, That in case of an appeal from an award by the commission of compensation for damages resulting from an appropriation of real property under the provisions of this act, the appeal

shall, in case any party is entitled to demand a jury trial under section eight of Article sixteen of the Constitution of this Commonwealth, be to the courts of the proper county thereof, but in all other cases shall be to the Superior Court. In case of any such appeal from such an award where the commission shall have apportioned the amount thereof among, or shall have directed the payment thereof by, any public utility, municipal corporation or the Commonwealth, any such public utility, municipal corporation, or the Commonwealth may intervene and be heard in the trial of such appeal under such rules and regulations as the court shall prescribe. If an appeal be taken to any court other than the Superior Court, the case shall proceed in accordance with the practice and procedure made and provided in such cases.

(b) All appeals to the Superior Court shall be by petition, setting forth specifically and concisely the error or errors assigned to the order of the commission, which petition shall be accompanied by a copy of the order appealed from, and shall also be accompanied by affidavit of the appellant, or of the agent or attorney of such appellant, that the appeal is not taken for the purpose of delay, but because the appellant verily believes that injustice has been done. Each error relied on must be specified particularly and set forth in a separate numbered paragraph of the petition.

Section 1102. Notice of Appeal; Certification of Record and Costs of Certification.—The commission shall be immediately notified in writing by the appellant of the taking of an appeal, and within a reasonable time after service of such notice, shall certify, under its official seal, to the proper court as hereinbefore provided, the record of such proceedings, which record shall include the evidence taken therein, a copy of all orders made by the commission in such proceedings, and a copy of the opinion, if any, filed by the commission before or after notice of appeal. The cost of preparing and certifying such record shall be paid to the commission by the appellant and taxed as part of the costs in the case to be paid as directed by the court upon the final determination of the appeal.

Section 1103. Supersedeas; Security.—No appeal from any order of the commission, except as hereinafter provided, shall, in any case, operate as a supersedeas of the order appealed from unless the Superior Court shall, by an interlocutory order, make such appeal a supersedeas. Such interlocutory order shall be made only after such notice to the commission and other parties of record as the court may direct, and after hearing. Upon the granting of a supersedeas in any case, the court may, in its discretion, require the filing

of a bond to the Commonwealth for the use of all parties aggrieved, in such sum and conditioned as the court may, by its order, direct, or may grant the supersedeas upon such other terms and conditions as the court, in its discretion, may prescribe: Provided, That the effect of any such supersedeas shall be to continue in effect the temporary rates, if any, previously established in the proceeding by the commission.

Section 1104. Parties on Appeal.—In any appeal to the Superior Court, the court may order the complainant in the original complaint to be added to the record as a party, and such party shall be permitted to join in the defense of the order of the commission at issue. The court may also, upon application by petition and cause shown, permit any person, corporation, or municipal corporation to intervene in such proceedings and be added as a party appellant or appellee therein. Notice of such application to intervene shall be served upon the commission within three days of the filing of such application.

Section 1105. Pleading and Issue on Appeal.—An answer may be filed by the commission within thirty days after being served with notice of the taking of an appeal. Leave may also be given by the court to any other party to the record to file an answer. Upon the filing of an answer by the commission, or if no such answer is filed within thirty days after service of notice of appeal, the case shall be considered at issue, and a hearing shall be held before such court as hereinafter provided without further pleadings. Copies of the petition and answer, if any, shall be served upon the opposite party or parties within five days after filing the same.

Section 1106. No Evidence Admitted on Appeal; Remission for Further Evidence.—No evidence shall be received at the hearing on any appeal, but if any party shall satisfy the court that evidence has been discovered since the hearing before the commission that could not have been obtained for use at that hearing by the exercise of reasonable diligence, and will materially affect the merits of the case, the court may, in its discretion, remand the record and proceedings to the commission with directions to take such after discovered evidence, and, after consideration thereof, to make such order as the commission may deem proper, from which order an appeal shall lie as in the case of any other final order.

Section 1107. Record on Appeal; Scope of Inquiry; and Disposition of Costs.—Any appeal to the Superior Court shall be determined upon the record certified by the commission to the court. All evidence in such record so certified may be considered by the court regardless of any technical rule which might have rendered the same

inadmissible, if originally offered in the trial of an action at law. The court may dismiss the appeal, or vacate the order complained of, in whole or in part. In case the order is wholly or partly vacated, the court may also, in its discretion, remand the matter to the commission for such further proceedings, not inconsistent with the decree, as in the opinion of the court justice may require. The order of the commission shall not be vacated or set aside, either in whole or in part, except for error of law or lack of evidence to support the finding, determination, or order of the commission, or violation of constitutional rights. The costs resulting from any appeal shall be upon the appellant, unless the court shall make other disposition of the costs in its decree.

Section 1108. Precedence of Appeals.—All appeals from the orders of the commission to the Superior Court shall take precedence upon the calendars of such court over all civil actions, except election cases, suits for wages, and workmen's compensation cases.

Section 1109. Appeals to Supreme Court.—Within thirty days after the entry of any final judgment, order, or decree of the Superior Court, any party to the record, aggrieved thereby, may appeal therefrom to the Supreme Court, if the jurisdiction of the Superior Court is in issue, or if the case involves the construction or application of the Constitution of the United States or of any statute or treaty of the United States, or if the case involves the construction or application of the Constitution of Pennsylvania, or if the appeal to the Supreme Court be especially allowed by the Superior Court itself, or by any one justice of the Supreme Court. Such appeals shall be taken and prosecuted in the same manner, and with the same effect, as is provided in other cases of appeal from the Superior Court to the Supreme Court.

Section 1110. Right to Trial by Jury.—Nothing in this act contained shall be construed to deprive any party, upon any such appeal and judicial review of the proceedings and orders of the commission, of the right to trial by jury of any issue of fact raised thereby or therein, where such right is secured either by the Constitution of the Commonwealth or of the United States, but in every such case such right of trial by jury shall remain inviolate: Provided, however, That when any appeal is taken, such right shall be deemed to be waived upon all issues, unless expressly reserved in such reasonable manner as shall be prescribed by the Superior Court.

Section 1111. Exclusive Jurisdiction of Dauphin County Court to Hear Injunctions.—No injunction shall issue modifying, suspending, staying, or annulling any order of the commission, or of a commissioner, except in

a proceeding questioning the jurisdiction of the commission, and then only after cause shown upon a hearing. The court of common pleas of Dauphin County is hereby clothed with exclusive jurisdiction throughout the Commonwealth, of all proceedings for such injunctions, subject to an appeal to the Superior Court as aforesaid.

Section 1112. Effect of Commission Action.—Whenever the commission shall make any rule, regulation, finding, determination, or order under the provisions of this act, the same shall be prima facie evidence of the facts found, and shall remain conclusive upon all parties affected thereby, unless set aside, annulled, or modified in an appeal to the Superior Court taken as provided in this act.

## ARTICLE XII

### EXPENSES AND FEES OF COMMISSION

Section 1201. Assessment of Regulatory Expenses Upon Public Utilities.—(a) All of the expenses of the commission incurred in connection with the administration and enforcement of this act, or any other act, and paid out of the General Fund of the State Treasury, shall be assessed and charged to, and paid by way of reimbursement by, all persons and corporations subject to this act, upon such reasonable basis and in such equitable amounts, and at such times, and in such manner, as the commission shall, by regulation or order, prescribe in accordance with the provisions of this section: Provided, That due allowance and deduction shall be made from such expenses equal to—(1) the expenses attributable to the regulation of municipal corporations under this act; (2) the fees and special assessments collected by the commission under the provisions of this act; and (3) equipment and office space expenditures.

(b) Whenever the commission, in a proceeding upon its own motion on complaint, or upon an application to it, or in connection with a securities certificate filed with it, shall deem it necessary to investigate the books, records, accounts, practices, and activities of, or make appraisals of the property of, or to render any engineering or accounting service to, any person or corporation, the salaries and traveling expenses of commission employes, and office space expenditures specifically attributable to such investigation, appraisal, or service, shall be charged to, and paid by, such person or corporation, and shall not be included in the expenses of the commission for the purpose of making assessments generally under this section; but the amount so charged to, and paid by, any such person or corporation during any one calendar year shall not exceed one per centum of the gross operating revenues of such person or corporation during the next preceding fiscal year.



(c) The commission shall give notice by registered mail to each person or corporation of the amount lawfully charged against him or it under the provisions of this section. Within fifteen days after receipt of such notice, the party against which such assessment has been made may file with the commission objections setting out in detail the grounds upon which the objector regards such assessment to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall hold a hearing upon such objections. After such hearing, the commission shall record upon its minutes its findings on the objections and shall transmit to the objector, by registered mail, notice of the amount, if any, charged against him in accordance with such findings. Each person or corporation shall pay the amount of any such assessment to the commission within thirty days after receipt of notice of such assessment, unless objections are filed thereto, in which case such assessment shall be paid within ten days after receipt of notice of the findings of the commission with respect to such objections. If payment is not made as aforesaid, the commission, through the Department of Justice, may institute an appropriate action at law for the amount lawfully assessed, together with any additional cost incurred by the commission or the Department of Justice by virtue of such failure to pay.

(d) No suit or proceeding shall be maintained in any court for the purpose of restraining or in anywise delaying the collection or payment of any assessment made under paragraphs (a), (b), and (c) of this section, but every person or corporation against whom or which an assessment is made shall pay the same as provided in paragraph (c) of this section. Any person or corporation making any such payment may, at any time within two years from the date of payment, sue the Commonwealth in an action at law to recover the amount paid, or any part thereof, upon the ground that the assessment was excessive, erroneous, unlawful, or invalid, in whole or in part, provided objections, as hereinbefore provided, were filed with the commission, and payment of the assessment was made under protest either as to all or part thereof. In any action for recovery of any payments made under this section, the claimant shall be entitled to raise every relevant issue of law, but the findings of fact made by the commission, pursuant to this section, shall be prima facie evidence of the facts therein stated. Any records, books, data, documents, and memoranda relating to the expenses of the commission shall be admissible in evidence in any court, and shall be prima facie evidence of the truth of their contents. If it is finally determined in any such action that all or any part of the assessment for which pay-

ment was made under protest was excessive, erroneous, unlawful, or invalid, the commission shall make a refund to the claimant as directed by the court, which shall be made from the current appropriation of the commission.

(e) The provisions of this act relating to the judicial review of orders and determinations of the commission shall not be applicable to any findings, determinations, or assessments made under this section. The procedure in this section providing for the determination of the lawfulness of assessments and the recovery back of payments made pursuant to such assessments shall be exclusive of all other remedies and procedures.

(f) It is the intent and purpose of this section that the several groups of persons and corporations subject to this act shall each contribute, by way of assessments, sufficient funds to the Commonwealth to reimburse the Commonwealth for the reasonable cost of regulating the respective groups. The commission shall keep records of the costs incurred in connection with the administration and enforcement of this act, or any other act. The commission shall also keep a record of the manner in which it shall have computed the amount assessed against every person or corporation. Such records shall be open to inspection by all interested parties. The determination of such costs and assessments by the commission, and the records and data upon which the same are made, shall be considered prima facie correct; and in any proceeding instituted to challenge the reasonableness or correctness of any assessment under this section, the party challenging the same shall have the burden of proof.

Section 1202. Fees for Services Rendered by Commission.—The commission shall charge and collect the following fees for the following services:

For copies of papers, testimony, and records, twenty-five cents per page.

For certifying a copy of any paper, testimony, or record, two dollars.

For preparing and certifying to the Superior Court any record in an appeal, ten dollars.

For the filing of each securities certificate, or each application for a certificate of public convenience, registration certificate, permit, or license, ten dollars.

Section 1203. Fees for Testing Appliances of Public Utilities.—The commission shall charge and collect from public utilities for the testing of their instruments of precision and measuring apparatus the following fees:

For testing each watt-hour meter, sixteen dollars.

For testing each indicating instrument, ten dollars.

For testing each instrument transformer, ten dollars.

For testing each standard cell, five dollars.

For testing each standard resistance, ten dollars.

For testing each potentiometer, fifty dollars.

For testing each gas meter prover, thirty-five dollars.

For testing each calorimeter tested at the gas company's plant, thirty-five dollars.

For testing each calorimeter tested at the commission laboratory, ten dollars.

For each water meter testing apparatus tested at the company's plant, fifteen dollars.

For each water meter tested at the commission laboratory, three dollars.

Section 1204. Disposition of Assessments, Costs, and Fees.—All assessments, costs, and fees received, collected or recovered under this article shall be paid by the commission into the General Fund of the State Treasury, through the Department of Revenue.

### ARTICLE XIII

#### PENALTIES

Section 1301. Civil Penalties for Violations by Public Utilities.—(a) If any public utility shall violate any of the provisions of this act, or shall do any matter or thing herein prohibited; or shall fail, omit, neglect, or refuse to perform any duty enjoined upon it by this act; or shall fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final direction, requirement, determination or order made by the commission, or any order of the commission prescribing temporary rates in any rate proceeding; or to comply with any final judgment, order or decree made by any court, such public utility, for such violation, omission, failure, neglect, or refusal, shall forfeit and pay to the Commonwealth of Pennsylvania the sum of fifty dollars; to be recovered by an action of assumpsit instituted in the name of the Commonwealth of Pennsylvania, in the court of common pleas of Dauphin County, which court is hereby clothed with exclusive jurisdiction throughout the Commonwealth to hear and determine all such actions. In construing and enforcing the provisions of this section, the violation, omission, failure, neglect, or refusal of any officer, agent, or employe acting for, or employed by, any such public utility, shall, in every case be deemed to be the violation, omission, failure, neglect, or refusal of such public utility.

(b) Each and every day's continuance in the violation of any regulation or final direction, requirement, determination, or order of the commission, or of any order of the commission prescribing temporary rates in any rate proceeding, or of any final judgment, order, or decree made by any court, shall be a separate and distinct offense: Provided, however, That if any interlocutory order of supersedeas, or a preliminary injunction

tion be granted, no penalties shall be incurred or collected for or on account of any act, matter, or thing done in violation of such final direction, requirement, determination, order, or decree, so superseded or enjoined for the period of time such order of superseadeas or injunction is in force.

Section 1302. Penalties for Violations by Officers, Agents or Employes.—Any person (whether or not an officer, agent, or employe, of any public utility) or any corporation, who or which shall knowingly fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final order, direction, or requirement of the commission, or any order of the commission prescribing temporary rates in any rate proceeding, or any final order or decree of any court, or who shall knowingly procure, aid, or abet any such violation, omission, failure, neglect, or refusal, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine of not more than five hundred dollars, or undergo imprisonment for not less than one month nor more than one year, or both, at the discretion of the court; and upon conviction of any subsequent offense shall be sentenced to pay the costs of prosecution and a fine of not more than one thousand dollars, or undergo imprisonment for not less than three months nor more than two years, or both, at the discretion of the court.

Section 1303. Nonliability for Enforcement of Lawful Tariffs and Rates.—(a) No public utility, nor any officer, agent or employe thereof, shall be liable for any penalty or forfeiture, or be subject to any prosecution, on account of demanding, collecting, or receiving any rate for any service, or for enforcing any regulation, or practice when such rate, regulation, or practice is contained in a tariff properly filed with the commission, and posted or published as herein provided, and is applicable by the terms thereof at the time to such service although such rate, regulation, method or practice may be found by the commission to be unjust or unreasonable.

(b) No contract carrier by motor vehicle, nor any officer, agent or employe thereof, shall be liable for any penalty or forfeiture, or be subject to any prosecution on account of demanding, collecting or receiving any minimum rate prescribed by the commission under the provisions of this act.

Section 1304. Unlawful Issuance and Assumption of Securities.—Any individual who shall knowingly affix his name or attestation to any stock certificate or other evidence of equitable interest, or any bond, note, trust certificate, or other security issued or assumed by any public utility, or any director who shall knowingly

assent to the issuance or assumption of any such stock certificate, or other evidence of equitable interest, or any bond, note or other evidence of indebtedness, or other security issued by any public utility, or any director who shall knowingly assent to the issue of any such certificate of stock, trust certificate, corporate bond, note, trust certificate, or other evidence of indebtedness, or other security of any public utility, in violation of any of the provisions or requirements of this act, or of section seven of Article sixteen of the Constitution, or any individual who shall knowingly make or assent to any false statement in any securities certificate required to be registered with the commission under the provisions of article six of this act, or who shall by any false statements, oral or written, knowingly make, procure, or seek to procure, of the commission the registration of any such securities certificate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo imprisonment for a term not exceeding five years, or both, in the discretion of the court.

Section 1305. Misapplication of Proceeds of Securities.—Any individual who shall knowingly make or assent to any application or disposition of any stock certificate, or other evidence of equitable interest, or any bond, note, trust certificate, or other evidence of indebtedness, or other security, or the proceeds of the sale or pledge thereof, or any part thereof, in violation of any statement or contrary to any purpose in relation thereto set forth or contained in any securities certificate required to be registered with the commission under the provisions of article six of this act; or who shall knowingly make or assent to any false statement in any report or account to the commission as to the disposition or application of the proceeds, or any part thereof, of any sale or pledge of any stock certificate, or other evidence of equitable interest, or any bond, note, trust certificate, or other evidence of indebtedness, or other security, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo imprisonment for a term not exceeding five years, or both, in the discretion of the court.

Section 1306. Execution of Unlawful Contracts.—Any individual who shall knowingly affix his name or attestation to any written contract or arrangement, or who shall enter into any written contract or arrangement, or any individual who shall knowingly assent to the entering into of any written or verbal contract, in violation of any of the provisions or requirements of

this act; or any individual knowingly making or assenting to any false statement in any application for the approval of any contract or arrangement, the approval of which is required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo imprisonment for a term not exceeding five years, or both, in the discretion of the court.

Section 1307. Refusal to Obey Subpoena or Testify.—If any individual who shall be subpoenaed to attend before the commission, or its representative, shall fail to obey the command of such subpoena, or if any individual in attendance before the commission, or its representative, shall refuse to be sworn or to be examined, or to answer any relevant question, or to produce any relevant data, book, record, paper, or document when ordered so to do by the commission, or its representative, such person, upon conviction thereof in a summary proceeding, shall be sentenced to pay the costs of prosecution and a fine of not less than fifty nor more than five hundred dollars.

Section 1308. Perjury.—Any individual who shall wilfully or corruptly, or both, give any false testimony, under oath or affirmation, in any hearing, investigation, or proceeding before or by the commission, or its representative, or before any notary public or other person authorized by law to take such testimony, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo imprisonment not exceeding one year, or both, in the discretion of the court.

Section 1309. Concealment of Witnesses and Records.—If any individual shall absent himself from the jurisdiction of the Commonwealth or conceal himself for the purpose of avoiding service of a subpoena issued by the commission, or its representative; or shall remove relevant data, books, records, papers, or other documents out of this Commonwealth for the purpose of preventing their examination by the commission; or shall destroy or conceal any such data, books, records, papers or other documents for such purpose, he shall be adjudged guilty of contempt; and any court of common pleas may impose a fine of not less than one hundred dollars for each day during the continuance of such refusal, neglect, concealment, or removal; and if such court shall find that the neglect, refusal, or concealment, or the removal or destruction of data, books, records, papers, or other documents by such witness, has been occasioned by the advice or consent of any party to the proceedings before the commission, or in anywise aided

or abetted by such party, then, in default of payment of such fine by the individual in contempt, the same shall be paid by such party and may be recovered from such party by an action in the name of the Commonwealth, in any court of common pleas, as other like fines and penalties are now by law recoverable. Imprisonment for contempt shall be by commitment to the county jail of the county in which such hearing is held.

Section 1310. Liability for Damages Occasioned by Unlawful Acts.—If any person or corporation shall do or cause to be done any act, matter, or thing prohibited or declared to be unlawful by this act, or shall refuse, neglect, or omit to do any act, matter, or thing enjoined or required to be done by this act, such person or corporation shall be liable to the person or corporation injured thereby in the full amount of damages sustained in consequence thereof: Provided, That the liability of public utilities, contract carriers by motor vehicles, and brokers for negligence, as heretofore established by statute or by common law, shall not be held or construed to be altered or repealed by any of the provisions of this act: And provided further, That the recovery in this section authorized shall in no manner affect a recovery by the Commonwealth of the penalty prescribed in section one thousand three hundred one of this act for such violations of this act.

Section 1311. Violations by Motor Carriers, Common Carriers by Airplane or Brokers.—Any person or corporation as a motor carrier, as a common carrier by airplane or as a broker, without first having obtained a certificate of public convenience, permit, or license as required by this act, shall, upon conviction of a first offense in a summary proceeding before any person having the power of a committing magistrate, be sentenced to pay the costs of prosecution and a fine of not less than twenty-five dollars nor more than three hundred dollars; and any subsequent offense by such person or corporation shall constitute a misdemeanor, and, upon conviction thereof, such person or corporation shall be sentenced to pay the costs of prosecution and a fine of not less than one hundred dollars nor more than five hundred dollars, or undergo imprisonment not exceeding six months, or both, in the discretion of the court. Whenever imprisonment is imposed under this section, the term "person" or "corporation," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Section 1312. Limitations of Actions.—No action for the recovery of any penalties or forfeitures incurred under the provisions of this act, and no prosecutions on account of any matter or thing mentioned in this act, shall be maintained unless brought within three years

from the date at which the liability therefor arose, except as otherwise herein provided. All suits, remedies, prosecutions, penalties, and forfeitures provided for, or accruing under, this act, shall be cumulative.

Section 1313. Disposition of Fines and Penalties.—All fines imposed, and all penalties recovered, under the provisions of this act, shall be paid to the commission, and by it paid into the State Treasury, through the Department of Revenue, to the credit of the General Fund.

Section 1314. Bribery.—Any officer, attorney, agent, or employe of any public utility who offers to any commissioner, or to any person appointed or employed by the commission, any office, place, appointment, or position, or offers to give to any commissioner, or to any person employed in the service of the commission, any free pass or transportation, or any reduction in fares to which the public generally is not entitled, or any free carriage of property, or any present, gift, or gratuity, money, or valuable thing of any kind, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine of not more than five hundred dollars, or undergo imprisonment for not less than one month nor more than one year, at the discretion of the court.

#### ARTICLE XIV

##### SAVING CLAUSES

Section 1401. Prior Rights of Certain Public Utilities Preserved.—Except as herein otherwise expressly provided, every existing public utility which has been rendering service continuously at least from January first, one thousand nine hundred fourteen, shall be entitled to the full enjoyment and the\* exercise of all and every rights, powers, and privileges which it lawfully possessed on that date: Provided, That any common carrier by motor vehicle, or forwarder possessing rights, powers, and privileges preserved by this section shall, within one hundred twenty days after the effective date of this act, apply to the commission, in such manner as the commission may require, for a registration certificate evidencing such rights, powers, and privileges; otherwise such rights, powers, and privileges shall thereafter be barred: Provided further, That no registration certificate granted under the provisions of this section, and no permit issued under the provisions of paragraph (a) of section eight hundred four of this act, shall be revoked solely by reason of lack of necessity for the service authorized by such certificate or permit.

Section 1402. Interstate and Foreign Commerce.—The provisions of this act, except when specifically so

\* "the" transposed from before the word "rights."



provided, shall not apply, or be construed to apply, to commerce with foreign nations, or among the several states, except in so far as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

Section 1403. Severability.—It is hereby declared that the provisions of this act are severable one from another, and severable as to the public utilities, persons, corporations, or municipal corporations subject thereto, and the subject matters respectively dealt with thereby; and if for any reason one or more of such provisions be judicially held to be unconstitutional, as applicable to any particular public utility, person or corporation, or subject matter dealt with by such provision, or be held unconstitutional in anywise for any reason, such holding or decision shall not affect the validity of such provision or provisions as applicable to other public utilities, persons, corporations, or municipal corporations, or subject matters dealt with thereby, or the validity of the remaining provisions of this act. It is hereby declared that such provision, and the remaining provisions, would have been enacted, notwithstanding such judicial determination of the invalidity of any of such particular provision or provisions in any respect.

Section 1404. Effect on Existing Proceedings, Certificates, Regulations, Tariffs, and Contracts.—All litigation, hearings, investigations, and other proceedings whatsoever, pending under any act repealed by this act, shall continue and remain in full force and effect, and may be continued and completed under the provisions of this act. All certificates, orders, rules, regulations, or tariffs made, issued, or filed under any act repealed by this act, and in full force and effect upon the effective date of this act, shall remain in full force and effect for the term issued, or until revoked, vacated, or modified under the provisions of this act. All existing contracts and obligations of the commission or its predecessor, entered into or created under any act repealed by this act, and in force and effect upon the effective date of this act, shall remain in full force and effect and shall continue to be performed by the commission.

Section 1405. Repealed Laws Not Revived, Etc.—The repeal by this act of any other act shall not revive any law heretofore repealed or superseded, and shall not impair or affect any act done, offense committed, or liability, penalty, judgment, or punishment incurred, prior to the time this act takes effect, but the same may be enforced, prosecuted, or inflicted as fully and to the same extent as if this act had not been passed. The provisions of this act, as far as they are the same as those of existing laws, shall be construed as a continuation of such laws and not as new enactments.

## ARTICLE XV

## EFFECTIVE DATE AND REPEALS

Section 1501. *Effective Date.*—This act shall become effective the first day of June, one thousand nine hundred thirty-seven.

Section 1502. *Repealer.*—The following acts are hereby repealed:

The act approved the twenty-sixth day of July, one thousand nine hundred thirteen (Pamphlet Laws, one thousand three hundred seventy-four), entitled “An act defining public service companies; and providing for their regulation by prescribing and defining their duties and liabilities; prescribing, defining, and limiting their powers, and regulating their incorporation, and, to a limited extent, regulating municipal corporations engaged or about to engage in the business of public service companies; creating and establishing a Public Service Commission for the regulation aforesaid; prescribing and defining the powers and duties of such commission and its officers, including the exclusive power to regulate the construction, alteration, relocation, or abolition of the crossings of railroad corporations, street railway corporations, or other public service companies, and of public highways by the tracks or other facilities of said companies; providing for the ascertainment by the commission of the expense and damages resulting from such construction, alteration, relocation, or abolition, and for the payment of such expense and damages, severally or proportionately, by the public service companies interested, the State, or municipal corporation concerned, and giving persons whose property is thereby taken, injured, or destroyed, authority to sue the Commonwealth for damages in such cases; providing for the terms, salaries, and compensation of the members of the commission, its officers, counsel, and employees; prescribing and regulating the practice and procedure before such commission, and upon appeal and judicial review of its orders and determinations by the courts of common pleas; and giving the court of common pleas of Dauphin County exclusive jurisdiction of such appeals in certain cases, and of all injunctions, mandamus or other appropriate proceedings to enforce the provisions of this act and the orders of the commission, and to restrain such orders, subject to an appeal to the Supreme Court; prescribing penalties, fines, and imprisonment for the violation of the provisions of this act and for the violation of the orders of said commission; making it the duty of the Public Service Commission to enforce the provisions of the act, approved the nineteenth day of June, one thousand nine hundred and eleven, entitled ‘An act to promote the safety of travelers and employes

on railroads, by compelling common carriers by railroad to properly man their trains,' by amending section nine thereof; repealing the act approved the thirty-first day of May, one thousand nine hundred and seven, which provided for the appointment of the Pennsylvania State Railroad Commission; and sections one and two of the act, approved the fourth day of June, one thousand eight hundred and eighty-three, entitled 'An act to enforce the provisions of the seventeenth article of the Constitution, relative to railroads and canals'; and an act, entitled 'To provide the maximum car service charges, including car storage charges, that railroad companies and corporations, or associations, may charge and collect on each car loading, and not unloaded within the free time for unloading cars, and fixing the free time that shall be allowed for unloading cars,' approved twenty-fourth day of May, Anno Domini one thousand nine hundred and seven; and the proviso of clause three and the provisos of clause seven of section thirty-four of the act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, one thousand eight hundred and seventy-four, and all other legislation inconsistent with or supplied by this act," and its amendments.

The act approved the fifth day of May, one thousand nine hundred twenty-one (Pamphlet Laws, three hundred eighty-five), entitled "An act to empower the Public Service Commission to require railroad corporations to employ an adequate number of men upon trains; and to repeal an act, approved the nineteenth day of June, nineteen hundred and eleven (Pamphlet Laws, ten hundred and fifty-three), entitled 'An act to promote the safety of travelers and employes upon railroads, by compelling common carriers by railroad to properly man their trains.'"

The act approved the twenty-ninth day of June, one thousand nine hundred twenty-three (Pamphlet Laws, nine hundred sixty-eight), entitled "An act prescribing certain fees to be charged and collected from public service companies by the Public Service Commission of the Commonwealth of Pennsylvania for the testing and proving, by said commission, the accuracy of certain apparatus and instruments of precision of public service companies; appropriating the moneys received from such fees to such commission for the expenses of conducting, operating, and maintaining its standardization laboratory, and the other meter or apparatus testing or proving activities of said commission."

The act approved the twenty-ninth day of June, one thousand nine hundred twenty-three (Pamphlet Laws, nine hundred seventy-five), entitled "An act prescribing

the manner in which certain persons, municipalities, partnerships, associations, or corporations may intervene in appeals to the Superior Court from findings, determinations, or orders of the Public Service Commission of the Commonwealth of Pennsylvania.”

All other acts or parts of acts inconsistent herewith are hereby repealed.

APPROVED—The 28th day of May, A. D. 1937.

GEORGE H. EARLE

No. 287

AN ACT

To promote the safety of employes and travelers upon railroads by compelling common carriers by railroad to man locomotive trains, and other self propelled engines or machines with competent employes; to provide the least number of men that may be employed on locomotive trains, and other self propelled engines or machines; to provide the qualifications of certain employes; and to provide a penalty for the violation thereof, and the enforcement thereof by the Public Utility Commission.

Railroads.  
Definitions.

Section 1. Be it enacted, &c., That, when used in this act and for the purposes of this act—(a) the word “carrier” means a common carrier by railroads, or partly by railroad and partly by water, and any receiver or any other individual or body, judicial or otherwise, when in possession of the business of carriers covered by this act, excluding street, suburban and interurban electric railroads, unless operated as a part of a general railroad system of transportation.

(b) The word “locomotive” means any self propelled unit operated by any form of energy or power, whether produced thereon or furnished from any outside source, and adopted for use in moving cars upon rails, or for the transportation of passengers or freight or property, except locomotive cranes, pile drivers, brown hoists, and other self propelled engines or machines not used for the transportation of passengers or freight or property for hire.

(c) The term “light engine” means any locomotive operated without cars and not transporting passengers, freight or property.

(d) The term “passenger train” means any self propelled unit while transporting passengers, or any locomotive with one or more cars constructed for the purpose of transporting passengers, baggage, mail, express or combination of either or any.

(e) The term “freight train” means any train composed of one or more locomotives with one or more cars or other vehicles constructed for the purpose of trans-