

# MAINE STATE LEGISLATURE

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## CHAPTER 40.

## PUBLIC UTILITIES COMMISSION.

See cc. 43, 45.

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In general: 125 Me. 63; 128 Me. 531; 133 Me. 4; 135 Me. 68; 136 Me. 228.

## Appointment, and General Authority and Duties

See c. 21, § 20, re land for airport, etc.

**Sec. 1. Appointment of commissioners; tenure of office; vacancies; clerks and their duties; chief inspector of utilities; office and equipment; salary; expenses.** R. S. c. 62, § 1; c. 125, § 31. 1931, c. 216. 1937, cc. 48, 221. The public utilities commission, as heretofore established, shall consist of 3 members appointed by the governor, with the advice and consent of the council, from time to time upon the expiration of the terms of the several members, for terms of 7 years. Any vacancy occurring in said commission shall be filled by appointment for the unexpired portion of the term in which such vacancy occurs. One member of the commission shall be designated by the governor as chairman. The commission shall adopt and have a seal and be provided with an office at the state house in which its records shall be kept. The commission shall appoint a clerk and, subject to the provisions of the personnel law, an assistant clerk, and also a chief inspector of utilities who shall be a practical railroad man and shall perform such duties as the commission may require. The clerk shall keep a full and minute record of the proceedings of the commission which shall be open to public inspection at all times. The assistant clerk shall assist the clerk in the performance of his duties, and in the absence of the clerk shall have the same powers as the clerk. The clerk shall have authority to certify to all official acts of the commission, administer oaths, issue subpoenas, and issue all processes, notices, orders, or other documents necessary to the performance of the duties of the commission. The commission shall have custody and control of all records, maps, and papers pertaining to the offices of the former board of railroad commissioners and the former state water storage commission.

The annual salary of each member of the public utilities commission shall be \$6,000. The salary of the clerk shall be left to the discretion of the commission, subject to the approval of the governor and council. The salary of the other subordinate officials and employees of said commission shall be subject to the provisions of the personnel law. The commissioners and all employees shall receive actual expenses when traveling on official business.

**Sec. 2. Members of commission and employees not to be connected with any public utility, nor shall commissioner hold other office; removal for violation of this section.** R. S. c. 62, § 2. No member or employee of said commission shall have any official or professional connection or relation with or hold any stock or securities in any public utility as defined in section 15, operating within this state, nor shall he render any professional service against any such public utility, nor shall he be a member of a firm which shall render any such service. No commissioner shall hold any other civil office of profit or trust under the government of the United States or of this state except the office of justice of the peace or notary public, nor shall he serve on or under any committee of any political party. Any wilful violation of the provisions of this chapter by any commissioner shall constitute sufficient cause for his removal by the governor with the advice and consent of the council.

**Sec. 3. Rules and regulations; assistance.** R. S. c. 62, § 3. The commission may make all necessary rules and regulations, and may employ such expert, professional, or other assistance as is necessary in making investigations or in otherwise carrying out the provisions of this chapter.

**Sec. 4. Investigation by commission; reasonable facilities to be furnished by public utility.** R. S. c. 62, § 4; c. 63, § 51. The commission shall have authority to inquire into the management of the business of all public utilities, and shall keep itself informed as to the manner and method in which each is conducted; and shall have the right to obtain from any public utility all necessary information to enable the commission to perform its duties.

Every public utility within the state shall furnish all reasonable facilities to the commission for the prompt and faithful discharge of its duties.

See c. 43, § 24; 118 Me. 367, 376.

**Sec. 5. Commission may inspect books and papers; agents to produce authority to inspect; not to divulge information; penalty.** R. S. c. 62, § 5. The commission or any commissioner or any person or persons employed by the commission for that purpose, shall, upon demand, have the right to inspect the books, accounts, papers, records, and memoranda of any public utility in relation to its business and affairs and to take copies thereof. Any person other than one of said commissioners who shall make such demand shall produce his authority to make such inspection. Such person or persons so employed shall not directly or indirectly divulge any information so derived to anyone except to the commission or under direction of the commission. Any person violating the provisions of this section shall be punished by a fine of not more than \$1,000, and by imprisonment for not more than 11 months.

124 Me. 319.

**Sec. 6. Public utilities to furnish information.** R. S. c. 62, § 6. Every public utility shall furnish the commission with all information necessary to carry into effect the provisions of this chapter; and in case it is unable to furnish such information it shall give a good and sufficient reason for such failure, and the reason for such failure shall be verified by an officer, owner, or agent of such public utility and returned to the commission at its office within the time fixed by the commission.

121 Me. 430.

**Sec. 7. May order production of books and papers; failure to obey, penalty.** R. S. c. 62, § 7. The commission may require, by order or subpoena to be served

on any public utility in the same manner that a summons is served in a civil action in the superior court, the production within this state at such time and place as it may designate, of any books, accounts, papers, or records kept by said public utility and within its control in any office or place within or outside the state, or verified copies thereof instead, if the commission shall so order, so that an examination thereof may be made by the commission or under its direction. Any public utility or any officer, agent, or attorney thereof failing or refusing to comply with any such order or subpoena shall, for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum not less than \$50, nor more than \$500, to be recovered by the state in an action on the case, which may be instituted by the commission in the name of the state.

**Sec. 8. Commission to inquire into violations of law by public utilities; attorney-general and county attorneys to aid commission; actions to recover penalties.** R. S. c. 62, § 8. The commission shall inquire into any neglect or violation of the laws of the state by any public utility doing business therein, or by the officers, agents, or employees thereof or by any person operating the plant of any public utility; and shall enforce the provisions of this chapter and all other laws relating to public utilities and shall report all violations thereof to the attorney-general. Upon the request of the commission the attorney-general or the county attorney of the proper county shall aid in any investigation, hearing, or trial had under the provisions of this chapter, and shall institute and prosecute all necessary actions or proceedings for the enforcement of the provisions of this chapter and of all other laws of this state relating to public utilities and to the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered and suit therefor be brought in the name of the state in the superior court in the county where the main office of the public utility is located or in Kennebec county. Complaint for the recovery of any such forfeiture may be made by the commission or any member thereof, and when so made the action so commenced shall be prosecuted by the attorney-general. The commission may employ counsel in any proceeding, investigation, or trial.

**Sec. 9. Commission to collect information relating to water powers of state.** R. S. c. 62, § 9. The commission shall collect information relating to the water powers of the state, the flow of rivers and their drainage area, the location, nature, and size of the lakes and ponds in the state and their respective value and capacity as storage reservoirs, and such other hydrographic data as they may deem of value in devising the best methods for the improvement of the natural storage basins of the state, and the creation of new storage reservoirs, with a view to conserving and increasing the capacity of the water powers of the state.

**Sec. 10. Authorized to confer with U. S. geological survey.** R. S. c. 62, § 10. The commission may confer with the director or the representative of the United States geological survey and accept its cooperation in the prosecution of hydrographic and geological surveys, and the preparation of a contour topographic survey and map of the state.

See c. 1, § 23, re topographic mapping; P. & S. L. 1939, c. 102:

**Sec. 11. Plans of proposed dams to be filed with commission.** R. S. c. 62, § 11. Every person, firm, or corporation before commencing the erection of a dam for the purpose of developing any water power in this state, or the creation or improvement of a water storage basin or reservoir for the purpose of controlling the waters of any of the lakes or rivers of the state, shall file with said commission for its information and use copies of plans for the construction of

any such dam or storage basin or reservoir, and a statement giving the location, height, and nature of the proposed dam and appurtenant structures and the estimated power to be developed thereby; and in case a dam is to be constructed solely for the purpose of water storage and not for the development of a water power at its site, plans and statements shall be filed with the commission showing the extent of the land to be flowed, the estimated number of cubic feet of water that may be stored, and the estimated effect upon the flow of the stream or streams to be affected thereby.

**Sec. 12. Commission to publish in biennial report data relating to water powers and resources; to report water storage capacity and other data relating to dams proposed to be constructed. R. S. c. 62, § 12.** The commission shall publish in its biennial report an account of its operations and include such data as it may deem advisable bearing on the water powers and water resources of the state; and may report upon a comprehensive and practical plan for the improvement and creation of such water storage basins and reservoirs as will tend to develop and conserve the water powers of the state. The commission may also report so far as its investigations will permit on the development of the water powers of the state with reference to the general plan proposed so that the legislature may have before it a comprehensive summary of the possibilities that lie in the development of the water powers of the state as a natural resource, and the necessary steps that should be taken by the state to further increase and conserve them.

So far as any proposed plan devised by the commission for the improvement and increase of water storage basins or reservoirs shall include the construction of a dam or dams upon or at the head waters of any river or water course, the commission shall ascertain and report as nearly as may be the water storage capacity in cubic feet of the reservoir to be created, the recorded rainfall on the watershed above such proposed dam, and the maximum, minimum, and average flow of water per second in cubic feet during each month in the year in said river or water course. It shall, as nearly as practicable, estimate the increased power that would be developed by such proposed dam in the rivers or streams to be affected thereby.

**Sec. 13. Commission to advise as to purification of water supply and disposal of sewage; complaints of pollution, procedure, appeal; jurisdiction; assistants; penalty. R. S. c. 62, §§ 13, 81.** The commission shall consult with and advise the authorities of cities and towns and persons and corporations having, or about to have, systems of water supply, drainage, or sewerage as to the most appropriate source of water supply and the best method of assuring its purity or as to the best method of disposing of their drainage or sewage with reference to the existing and future needs of other cities, towns, or persons or corporations which may be affected thereby. It shall also consult with and advise persons or corporations engaged or intending to engage in any manufacturing or other business whose drainage or sewage may tend to pollute any inland water, as to the best method of preventing such pollution, and it may conduct experiments to determine the best method of the purification or disposal of drainage or sewage. No person shall be required to bear the expense of such consultation, advice, or experiment. Cities, towns, persons, and corporations shall submit to said commission for its advice their proposed system of water supply or of the disposal of drainage or sewage and all petitions to the legislature for authority to introduce a system of water supply, drainage, or sewerage shall be accompanied by a copy of the recommendation and advice of said commission thereon. In this

section the term "drainage" means rainfall, surface, and subsoil water only, and "sewage" means domestic and manufacturing filth and refuse.

Upon petition to said commission by the mayor of a city or the selectmen of a town the managing board or officer of any public institution, or by a board of water commissioners, or the president or other official of a water or ice company, stating that manure, excrement, garbage, sewage, or any other matter pollutes or tends to pollute the waters of any stream, pond, spring, or water course used by such city, town, institution, or company, as a source of water supply, the commission shall appoint a time and place within the county where the nuisance or pollution is alleged to exist for a hearing, and after such notice thereof to parties interested and a hearing, if in its judgment the public health so requires, may, by an order served upon the party causing or permitting such pollution, prohibit the deposit, keeping, or discharge of any such cause of pollution, and shall order him to desist therefrom and to remove any such cause of pollution; but the commission shall not prohibit the cultivation and use of the soil in the ordinary methods of agriculture if no human excrement is used thereon. Said commission shall not prohibit the use of any structure which was in existence on or before the 1st day of January, 1917, upon a complaint made by any city, town, corporation, or water district, water or ice company, unless such city, town, corporation, water district, or company files with said commission a vote of its city government, selectmen, corporation, water district, or company that such city, town, corporation, water district, or company will, at its own expense, make such changes in said structure or its location as said commission shall deem expedient. Such vote shall be binding on such city, town, corporation, water district, or company and all damages caused by any such change shall be paid by such city, town, corporation, water district, or company. If the parties cannot agree thereon, the damage shall, on petition of either party, filed within 1 year after such changes are made, be assessed by a jury in the superior court for the county where such structure is located.

Whoever is aggrieved by an order passed under the provisions of this section may appeal therefrom to the superior court sitting in the county where appellant resides; but such notice of the pendency of the appeal as the court shall order shall also be given to the board of water commissioners and the mayor of the city or chairman of the selectmen of the town or president or other officer of the water or ice company interested in such order. While the appeal is pending, the order of the commission shall be complied with unless otherwise authorized by the commission.

The supreme judicial court and the superior court shall have jurisdiction in equity, upon the application of the commission or of any party interested, to enforce its orders, or the orders, rules, and regulations of said commission, and to restrain the use or occupation of the premises, or such portion thereof as said commission may specify, on which said material is deposited or kept, or such other cause of pollution exists until the orders, rules, and regulations of said commission have been complied with.

The agents and servants of said commission may enter any building, structure, or premises for the purpose of ascertaining whether sources of pollution or danger to the water supply there exists, and whether the rules, regulations, and orders aforesaid are obeyed.

Unless the commission determines that public health will not thereby be seriously injured, no sewage, drainage, refuse, or polluting matter of such kind and amount as either by itself or in connection with other matter will corrupt or impair the quality of the water of any pond or stream used as a source

of ice or water supply by a city, town, public institution, or water company for domestic use or render it injurious to health, and no human excrement shall be discharged into any such pond or stream or upon the banks thereof if any filtering basin in use is there situated. The prohibition against the deposit of sewage, drainage, refuse, polluting matter, and human excrement shall not apply to the following rivers, namely, the Penobscot, the Kennebec, the Androscoggin, and the Saco.

The commission may appoint, employ, and fix the compensation of such agents, clerks, engineers, and expert assistants as is considered by said commission necessary for carrying out the provisions of this section.

Whoever violates any rule, regulation, or order made under the provisions of this section shall be punished for each offense by a fine of not more than \$500 to the use of the state, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

**Sec. 14. Commission to prepare rules governing use and operation of headlights on electric cars; penalty.** R. S. c. 62, §§ 14, 79. The commission shall prepare rules and regulations from time to time governing the use and operation of headlights on electric cars, and may from time to time alter, rescind, or add to any rules and regulations previously made by it. Such rules and regulations of the commission and any changes therein shall take effect when approved by the governor and council and published at least once in each daily newspaper in the state. The certificate of the clerk of the commission shall be received as prima facie evidence in any court of law to prove that said rules and regulations have been prepared, approved, and published as herein provided.

Whoever, either as owner or operator, fails to comply with any of the effective rules and regulations established by the commission as provided in this section shall be punished by a fine of not more than \$5 for each offense.

See c. 19, § 34, re lights on motor vehicles.

#### Definitions of Words and Phrases

**Sec. 15. Words and phrases defined.** R. S. c. 62, § 15. 1931, c. 126, §§ 1, 2. Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

- I. "Commission" means the public utilities commission.
- II. "Commissioner" means one of the members of the commission.
- III. "Corporation" includes municipal and quasi-municipal corporations.
- IV. "Person" includes an individual, a copartnership, and a voluntary association.
- V. "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, and convenience of the person transported and the receipt, carriage, and delivery for such person and his baggage.
- VI. "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and handling, and the transmission of credit by express or telegraph companies.

VII. "Street railroad" includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along,

above, or below any street, avenue, road, highway, bridge, or public place within any city or town, together with all real estate, fixtures, and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property.

VIII. "Street railroad company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any street railroad for compensation within this state.

IX. "Railroad" includes every commercial, interurban, and other railway other than a street railroad and each and every branch and extension thereof by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities structures, and equipment and all other real estate, fixtures, and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property.

X. "Railroad company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any railroad for compensation within this state.

XI. "Express company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise, or other property for compensation on the line of any common carrier or over any stage line or auto stage line within the state.

XII. "Common carrier" includes every railroad company, street railroad company, express company, dispatch, sleeping-car, dining-car, drawing-room car, freight, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading, and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state or upon the high seas, over regular routes between points within this state.

XIII. "Gas plant" includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas for light, heat, or power.

XIV. "Gas company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

XV. "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, for public use and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors

used or to be used for the transmission of electricity for light, heat, or power for public use.

**XVI.** "Electrical company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

**XVII.** "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

**XVIII.** "Telephone company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any telephone line for compensation within this state.

**XIX.** "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires.

**XX.** "Telegraph company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any telegraph line for compensation within this state.

**XXI.** "Water-works" includes all reservoirs, tunnels, shafts, dams, dikes, head-gates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment, or measurement of water for municipal and domestic use.

**XXII.** "Water company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water-works for compensation within this state.

**XXIII.** "Vessel" includes every steamboat which is owned, controlled, operated, or managed for public use, in the transportation of persons or property for compensation within this state.

**XXIV.** "Wharfinger" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any dock, wharf, or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this state.

**XXV.** "Warehouseman" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any building or structure in which property is regularly stored for compensation within this state, in connection with or to

facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf, or structure, owned, operated, controlled, or managed by a wharfinger.

**XXVI.** "Public utility" includes every common carrier, gas company, electrical company, telephone company, telegraph company, water company, public heating company, wharfinger, and warehouseman, as those terms are defined in this section, and each thereof is declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the commission, and to the provisions of this chapter.

**XXVII.** "Steam railroad" or "steam railroad company" shall be construed to mean any railroad or terminal company, however chartered, using steam as its motive power; and the term "electric railroad" or "electric railroad company" shall be construed to mean any railroad or terminal company using electricity as its motive power.

**XXVIII.** "Public heating company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing a plant for the purpose of selling heat to the general public, but shall not include any of the aforesaid corporations, persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever who sells heat to a limited number of individuals or corporations not in excess of 75,000 square feet of direct radiation or its equivalent.

120 Me. 23; 124 Me. 313; 128 Me. 531; 129 Me. 243, 247.

### Rates and Accounting

**Sec. 16. Public utility to furnish safe and reasonable facilities; charges to be reasonable and just. R. S. c. 62, § 16.** Every public utility is required to furnish safe, reasonable, and adequate facilities. The rate, toll, or charge, or any joint rate made, exacted, demanded, or collected by any public utility for the conveyance or transportation of persons or property between points within this state, or for any heat, light, water, or power produced, transmitted, delivered, or furnished, or for any telephone or telegraph message conveyed, or for any service rendered or to be rendered in connection with any public utility, shall be reasonable and just, taking into due consideration the fair value of all its property with a fair return thereon, its rights and plant as a going concern, business risk, and depreciation. Every unjust or unreasonable charge for such service is prohibited and declared unlawful.

118 Me. 374, 375, 388, 392; 121 Me. 430; 125 Me. 448; 128 Me. 256, 259; 131 Me. 304, 307; 134 Me. 95, 97.

**Sec. 17. Valuation of property to be made if necessary for fixing rates. R. S. c. 62, § 40.** The commission shall fix a reasonable value upon all the property of any public utility used or required to be used in its service to the public within the state whenever it deems a valuation thereof to be necessary for the fixing of fair and reasonable rates, tolls, and charges; and in making such valuation it may avail itself of any reports, records, or other information available to it in the office of any state officer or board.

118 Me. 376; 134 Me. 95.

**Sec. 18. Commission to prescribe uniform system of accounts. R. S. c. 62, § 17.** Every public utility shall keep and render to the commission in the manner and form prescribed by the commission, uniform accounts of all business trans-

acted. In formulating a system of accounting for any class of public utilities the commission shall consider any system of accounting established by any federal law, commission, or department, and any system authorized by the national association of such utilities.

**Sec. 19. Utility may be required to render account of subsidiary business.** R. S. c. 62, § 18. Every public utility engaged directly or indirectly in any other subsidiary business shall, if ordered by the commission, keep and render separately to the commission in like manner and form, the accounts of all such business, in which case all the provisions of this chapter shall apply with like force and effect to the books, accounts, papers, and records of such other business.

**Sec. 20. Commission to prescribe forms of all books and records; exceptions.** R. S. c. 62, § 19. The commission shall prescribe the forms of all books, accounts, papers, and records required to be kept, and every public utility is required to keep and render its books, accounts, papers, and records accurately and faithfully in the manner and form prescribed by the commission and to comply with all directions of the commission relating to such books, accounts, papers, and records; provided that the requirements of this section shall not apply to a public utility having no property located within this state other than such as is employed therein while in transit, but every such public utility shall appoint an agent residing in this state upon whom all notices, processes of the commission, or other papers relating to the provisions of this chapter may be served, and shall file a copy of such appointment with the clerk of the commission.

**Sec. 21. Commission to prepare blanks.** R. S. c. 62, § 20. The commission shall cause suitable blanks to be prepared, for carrying out the purposes of this chapter, and shall when necessary furnish such blanks to each public utility.

**Sec. 22. Other systems prohibited.** R. S. c. 62, § 21. No public utility shall keep any other books, accounts, papers, or records of its business transacted than those prescribed or approved by the commission; provided, however, that nothing contained in this chapter shall require any public utility engaged in interstate commerce, to do, or not to do, anything contrary to the requirements of any federal law relating thereto.

**Sec. 23. Accounts closed December 31st; balance sheet to be filed; exceptions.** R. S. c. 62, § 22. 1931, c. 117. The accounts of all public utilities shall be closed annually on the 31st day of December, unless a different date is fixed by the commission, and a balance sheet of that date, or of the date so fixed, promptly taken therefrom. Within 2 months after said date, or the date so fixed, such balance sheet together with such other information as the commission shall prescribe, verified by an officer or owner of the public utility, shall be filed with the commission, provided, however, that said commission may by general order extend said time not exceeding 1 month, and may in its discretion excuse any public utility from filing such returns when the gross revenue of such utility does not exceed the sum of \$1,000.

**Sec. 24. Audit of accounts.** R. S. c. 62, § 23. The commission shall provide for the examination and audit of all accounts and all items shall be allocated to the accounts in the manner prescribed by the commission.

124 Me. 313.

**Sec. 25. Authority of agents to inspect records.** R. S. c. 62, § 24. The agents, accountants, or examiners employed by the commission shall have

authority within or outside the state under the direction of the commission to inspect and examine any and all books, accounts, papers, records, and memoranda kept by any public utility.

124 Me. 313.

**Sec. 26. Public utility to file schedule of rates, and rules and regulations.** R. S. c. 62, § 25. Every public utility shall file with the commission within a time to be fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls, and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it or in conjunction therewith. Every public utility shall file with and as a part of such schedules all rules and regulations that in any manner affect the rates charged or to be charged for any service.

125 Me. 450; \*126 Me. 145; 127 Me. 162; 128 Me. 531; 129 Me. 421; 136 Me. 175, 177.

**Sec. 27. Copy of schedules to be kept on file for the public.** R. S. c. 62, § 26. A copy of so much of said schedules as the commission shall deem necessary for the use of the public shall be printed in plain type and kept on file in every station or office of said public utility where payments are made by the consumers or users, open to the public under such rules and regulations as may be prescribed by the commission.

**Sec. 28. Schedule of joint rates.** R. S. c. 62, § 27. Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedules shall in like manner be printed and filed with the commission and so much thereof as the commission shall deem for the use of the public shall be filed in every such station or office as provided in section 27.

**Sec. 29. Thirty days' notice to be given commission; new rates to be filed 30 days before effective; commission may use discretion.** R. S. c. 62, § 28. No change shall be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commission, and all such changes shall be plainly indicated upon existing schedules by filing new schedules in lieu thereof 30 days prior to the time the same are to take effect: provided that the commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section and the following section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

118 Me. 393; 126 Me. 24.

**Sec. 30. New tariffs to be filed at offices of company 30 days before effective.** R. S. c. 62, § 29. Copies of all new schedules shall be filed as hereinbefore provided in every station and office of such public utility, where payments are made by customers or users 30 days prior to the time the same are to take effect, unless the commission shall prescribe a less time as provided in the preceding section.

**Sec. 31. Rates on through shipments over connecting lines, how established.** R. S. c. 62, § 30. It shall be unlawful for any public utility to charge, demand, collect, or receive a greater or less compensation, except as otherwise provided in section 39, for any service performed by it within the state or for any service in connection therewith, than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, or to demand, collect, or receive any rate, toll, or charge not specified in such schedules; pro-

vided, however, that the total charges for through shipments over connecting lines of common carriers shall not exceed the combination of intermediate charges over the several lines between the 2 terminals of the shipment for the same commodity under the most favorable terms prescribed in the printed schedules of the connecting common carriers, and no carrier shall refuse to consign through to destination in this state, and no connecting carrier shall refuse to receive and transport on the combination of such intermediate charges any commodity which is regularly a subject of carriage and through billing or consignment on the same and such connecting lines. The rates, tolls, and charges named therein shall be the lawful rates, tolls, and charges until the same are changed as provided in this chapter. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.

125 Me. 450; 136 Me. 175, 177.

**Sec. 32. Commission may order connecting steam railroads to establish joint rates.** R. S. c. 62, § 31. The commission may, after hearing, on a complaint or upon its own motion without complaint, require any two or more railroads operated by steam whose lines form a continuous line of transportation, or could be made reasonably to do so by the construction and maintenance of switch connection or interchange track at connecting points, to establish through routes, and joint rates, fares, charges, and classifications for the transportation of property or passengers, provided there is no reasonable existing through route between the places it is desired to serve.

**Sec. 33. Commission may prescribe joint rates.** R. S. c. 62, § 32. On failure of such railroads to establish joint rates, fares, charges, or classifications, as provided in the preceding section, the commission may, in the same proceeding, or in a separate proceeding involving rates, fares, charges, or classifications, prescribe joint rates, fares, charges, and classifications as the maximum to be exacted for the transportation by them of property or passengers, and if such companies cannot agree as to the division of rates, fares, or the conditions under which such through rates or transportation shall be established or such cars or other equipment operated, the commission may, after due hearing, determine and prescribe the proportionate portions of such through rates, fares, or charges payable to each of such companies necessary to the establishment of such through routes or transportation and the conditions under which such through routes or transportation shall be established, or the conditions under which such cars or other equipment shall be operated.

**Sec. 34. Commission may hold public hearing to investigate proposed change of rates by public utility; may suspend rate pending hearing.** R. S. c. 62, § 33. Whenever the commission receives notice of any change or changes proposed to be made in any schedule of rates filed with said commission under the provisions of law, it shall have power at any time before the effective date of such change or changes, either upon complaint or upon its own motion, and after reasonable notice, to hold a public hearing and make investigation as to the propriety of such proposed change or changes. At any such hearing involving any change or changes as above specified the burden of proof to show that such change is reasonable shall be upon the public utility. After such hearing and investigation the commission may make such order with reference to any new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation, or form of contract or agreement proposed as would be proper in a proceeding initiated upon complaint or upon motion of the commission in any rate investigation.

Pending such investigation and order the commission may at any time within said period preceding the effective date of any such schedule, by filing with such schedule and delivering to the public utility affected thereby a statement of its reasons for said suspension, suspend the operation of such schedule or any part thereof, but not for a longer period than 3 months from the date of said order of suspension; provided, however, that if said investigation cannot be concluded within said period of 3 months said commission may in its discretion extend the time of suspension for a further period of 3 months; and provided further, that nothing in this section contained shall apply to any schedule filed with the commission and proposing any change or changes in any new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation, or form of contract or agreement affecting the transportation of freight.

126 Me. 24; 128 Me. 259.

**Sec. 35. Proposed change in freight rates; joint hearing with interstate commerce commission authorized.** R. S. c. 62, § 34. Whenever the commission receives notice of any change or changes proposed to be made in any schedule of new rates, joint rates, fares, rentals, tolls, classifications, charges, rules, regulations, or forms of contract or agreement affecting the transportation of freight, and filed with said commission under the provisions of law, said commission shall have power at any time within 30 days after the effective date of such change or changes, either upon complaint or upon its own motion, and after reasonable notice, to hold a public hearing and make investigation as to the propriety of such proposed change or changes.

At any such hearing involving any change or changes as above specified the burden of proof to show that such change is reasonable shall be upon the common carrier. After such hearing and investigation the commission may make such order, within a period of not less than 6 months after the effective date of the schedule setting forth such change or changes with reference to any proposed new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation, or form of contract or agreement proposed as would be proper under existing law in a proceeding initiated upon complaint or upon motion of the commission in any rate investigation; and in cases involving an increase in an existing rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight, if the commission shall find that such increase is unreasonable it may, by proper order, determine and fix the maximum rate, joint rate, toll, fare, rental, or charge which may thereafter be collected for the service rendered, and no rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight in excess thereof shall be filed within a period of 1 year after the making of such order; and the commission, by proper order, may require the common carrier which has filed any such increased rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight to refund, in such manner and under such conditions as may be prescribed by the commission, to all persons from whom charges have been collected by virtue of the schedules under investigation, any and all sums collected in excess of the rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight so determined and fixed by the commission as being the maximum rate, joint rate, toll, fare, rental, or charge to be collected, and may require due report of the refund so made. Whenever any carrier shall file with the commission, and also with the interstate commerce commission, a tariff containing both intrastate rates and interstate rates on the same commodity, and prior to the effective date thereof the interstate rates are suspended by the interstate commerce commission; then the commission shall have power to suspend, at any time within 10 days after the date of the suspension order issued by the

interstate commerce commission, the proposed intrastate rates, and such suspension may be kept in full force and effect so long as the interstate rates shall continue under suspension with a reasonable time thereafter for preparation of and issue of decision. The commission may, with the consent of the governor and council, hold joint hearings with the interstate commerce commission with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of the commission and the interstate commerce commission, in accord with the provisions of the act to regulate commerce and applicable amendments.

126 Me. 24.

**Sec. 36. Comprehensive classification of service.** R. S. c. 62, § 35. The commission shall provide for a comprehensive classification of service for each public utility and such classification may take into account the quantity used, the time when used, the purpose for which used, and any other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls, and charges to such classification.

128 Me. 256, 260.

### Regulation and Control

**Sec. 37. Utilities must not give special privileges; exceptions.** R. S. c. 62, § 36. It shall be unlawful for any public utility to demand, charge, collect, or receive from any person, firm, or corporation less compensation for any service rendered or to be rendered by such public utility in consideration of the furnishing by such person, firm, or corporation of any part of the facilities incident thereto; provided that nothing herein shall be construed as prohibiting any public utility from renting any facilities incident to the production, transmission, delivery, or furnishing of heat, light, water, or power, or the conveyance of telephone or telegraph messages and paying a reasonable rental therefor, or as requiring any public utility to furnish any part of such appliances which are situated in or upon the premises of any customer or user, except telephone station equipments upon the subscribers' premises, and unless otherwise ordered by the commission, meters and appliances for the measurement of any product or service; and provided further, that nothing herein shall affect scheduled classifications of telephone service wherein separate charges are made for facilities and for service or scheduled classifications of rural telephone service wherein a portion of the facilities are regularly furnished by the user of the service.

115 Me. 243.

**Sec. 38. Unjust discrimination defined.** R. S. c. 62, § 37. If any public utility makes or gives any undue or unreasonable preference or advantage to any particular person, firm, or corporation or any undue or unreasonable prejudice or disadvantage in any respect whatever, such public utility shall be deemed guilty of unjust discrimination which is prohibited and declared unlawful.

\*115 Me. 234; 118 Me. 394; 128 Me. 256.

**Sec. 39. Unlawful to receive or solicit rebates; exception; penalty.** R. S. c. 62, §§ 38, 80. 1941, c. 307. It shall be unlawful for any person, firm, or corporation knowingly to solicit, accept, or receive any rebate, discount, or discrimination in respect to any service rendered, or to be rendered by any public utility, or for

any service in connection therewith whereby any such service shall in any manner, or by any device whatsoever, be rendered free or at a rate less than named in the schedules in force as provided herein or whereby any service or advantage is received other than is herein specified; provided that the provisions of this chapter shall not prohibit such free or reduced rates by public utilities as is defined and provided for in the acts of congress entitled, "An Act to Regulate Commerce" and acts amendatory thereof, nor free or reduced transportation to the officers of leased lines or to police officers or firemen in uniform or of municipal fire apparatus, call men of fire departments wearing badges, while going to or returning from fires, chiefs, captains, sergeants, lieutenants, and inspectors of police departments, in plain clothes and wearing badges, editors and regular reporters of newspapers; nor shall it be construed to prohibit any public utility from granting service at free or reduced rates for charitable or benevolent purposes, or for national or civilian defense purposes, nor to prohibit any public utility from supplying water and service free or at reduced or special rates to any person, firm, or corporation for fire protection purposes through or by means of any apparatus or appliances furnished, installed, or maintained by such person, firm, or corporation, provided the same be approved by the commission; nor shall it be unlawful for any public utility to make special rates to its employees or in case of emergency service, nor shall the furnishing by any public utility of any product or service at the rates and upon terms and conditions provided for in any contract in existence January 1, 1913 be construed as constituting a discrimination or undue or unreasonable preference, or advantage within the meaning specified; provided, however, that when any such contract or contracts are or become terminable by notice of such utility the commission shall have power in its discretion to direct by order that such contract or contracts shall be terminated by such utility as and when directed by such order; and provided further, that it shall be lawful for any public utility to make a contract for a definite term subject to the approval of the commission, for its product or service, but such published rates shall not be changed during the term of the contract without the consent of the commission.

Any person, firm, or corporation violating any of the provisions of this section shall be punished by a fine of not more than \$1,000 for each offense.

\*115 Me. 234; 118 Me. 376, 394; 125 Me. 450.

**Sec. 40. Limitation of power of public utilities to make contracts and loans to certain stockholders.** 1933, c. 213. No public utility doing business in this state shall extend credit or make loans to or make any contract or arrangement, providing for the furnishing of management, supervision of construction, engineering, accounting, legal, financial, or similar services, or for the furnishing of any service other than those above enumerated, with any corporation, person, partnership, or trust, holding, controlling, or owning in excess of 25% of the voting capital stock of such public utility, or with any other corporation which is itself owned or controlled by or affiliated with any corporation, person, partnership, or trust, holding, controlling, or owning a majority of the voting capital stock of such public utility, unless and until such contract or arrangement shall have been found by the commission not to be adverse to the public interest and shall have received their written approval. Provided, however, that the commission shall in the case of any utility have the power to exempt herefrom, from time to time, such classes of transactions as it may specify in writing in advance and which in its judgment will not affect the public interest.

### Investigation of Accidents

Sec. 41. Commission to investigate accidents; reports of accidents to be filed under rules of commission. R. S. c. 62, § 39. In the event of an accident resulting in the loss of human life occurring upon the premises of any public utility, or directly or indirectly arising from or connected with its maintenance or operation, the commission shall cause an investigation thereof to be made forthwith, and in the event of any such accident resulting in personal injury or damage to property the commission may make such investigation if in its judgment the public interest requires it, which investigation shall be held in the locality of the accident, unless for the greater convenience of those concerned it shall order such investigation to be held at some other place. Such investigation may adjourn from place to place as may be found necessary and convenient. The commission shall seasonably notify the public utility of the time and place of the investigation, and such public utility may then be heard; and the commission shall have power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable. Every public utility is required to file with the commission under such rules and regulations as the commission may prescribe, reports of accidents so occurring, in the manner and form designated by the commission; provided, however, that in case of accidents resulting in loss of human life, such report shall be made immediately by telephone or telegraph followed by a detailed written report; provided that neither the order nor recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of the loss of life or injury to person or property referred to in this section.

### Approval of Stocks, Bonds, and Notes

Sec. 42. Authorization of issue of stocks, bonds, and notes by public utilities. R. S. c. 62, § 41. 1931, c. 120. 1937, c. 41. 1939, c. 199. Any public utility now organized and existing or hereafter incorporated under and by virtue of the laws of this state and doing business in the state may issue stocks, bonds which may be secured by mortgages on its property, franchises, or otherwise, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property to be used for the purpose of carrying out its corporate powers, the construction, completion, extension, or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, including capital stock, or to reimburse its treasury for moneys used for the acquisition of property, the construction, completion, extension, or improvement of its facilities, or for the discharge or lawful refunding of its obligations, and which actually were expended from income or from other moneys in the treasury of the corporation not secured by, or obtained from the issue of stocks, bonds, notes, or other evidences of indebtedness of such corporation, or for any other lawful purposes; provided and not otherwise, that upon written application, setting forth such information as the commission may require, there shall have been secured from the commission an order authorizing such issue and the amount thereof and stating that in the opinion of the commission the sum of the capital to be secured by the issue of said stocks, bonds, notes, or other evidences of indebtedness is required in good faith for purposes enumerated in this section; and every such order, authorizing the issue of stock, shall, if authorized to be sold at less than its par value, specify a minimum price at which the shares so authorized are to be sold, and any and all shares of stock, issued in accordance with

the provisions of such an order, shall be full paid stock and not liable to any further call or payment thereon, notwithstanding it may have been authorized for sale at less than its par value; but the provisions of this chapter shall not apply to any stocks or bonds or other evidences of indebtedness heretofore lawfully authorized and issued; provided, however, that the commission may at the request of any public utility approve the issue of any stocks or bonds heretofore authorized but not issued. For the purpose of enabling the commission to determine whether it shall issue such an order, the commission shall make such inquiries for investigation, hold such hearings and examine such witnesses, books, papers, documents, or contracts as it may deem of importance in enabling it to reach a determination. No order of the commission authorizing the issue of any stocks, bonds, notes, or other evidences of indebtedness shall limit or restrict the powers of the commission in determining and fixing any rate, fare, toll, charge, classification, schedule, or joint rate as provided in this chapter; provided, however, that no public utility shall be required to apply to the commission for authority to issue stocks, bonds, notes, or other evidences of indebtedness for the acquisition of property, for the purposes of carrying out its corporate powers, the construction, completion, extension, or improvement of its facilities, or the improvement or maintenance of its service outside the state, and this proviso shall apply also to the following section.

Subject to the foregoing and subsequent provisions of this section any railroad corporation may issue bonds or other interest-bearing securities maturing at periods of more than 12 months after the date thereof and may issue one or more classes of preferred stock which may have attached thereto warrants entitling the holder thereof to subscribe for shares of common stock or preferred stock of any class in such amounts, at such future date or dates, at such price or prices and on such terms and conditions as may be specified in said warrants; such bonds or other interest-bearing obligations and such preferred stock also may be issued with provision therein or thereon that the same may be converted into shares of common stock or preferred stock of any class in such amounts, at such future date or dates, at such price or prices and on such terms and conditions as may be specified in or on such bonds or other interest-bearing obligations or in or on the certificates representing such preferred stock. The foregoing provisions of this paragraph shall apply to securities of the character specified in this paragraph issued by any railroad corporation on or after October 1, 1934; and such securities need not be offered to the stockholders unless the stockholders, by majority vote, shall so require, and common or preferred stock of any class authorized to be hereafter issued to meet the purchase rights of such warrants issued on or after October 1, 1934, or in exchange for any such convertible securities so issued, shall be wholly exempt from any provisions of section 23 of chapter 41 requiring that certain increases in capital stock shall be offered to stockholders.

Without in any way restricting the general language hereof, this section shall be construed to authorize any municipal or quasi-municipal corporation referred to in this chapter to issue, upon vote of its trustees or similar governing board, bonds, notes, or other evidences of indebtedness for the purposes herein specified and subject to the approval of the commission as herein provided. The trustees or similar governing boards of any such corporations may issue notes or other evidences of indebtedness payable at periods of less than 12 months after the date thereof when necessary to carry out the purposes of such corporations.

No railroad corporation subject to the interstate commerce act shall be required to make application to the commission, or to procure its authority, consent, approval, or order, in respect of any of the matters set forth in this section or in

sections 43 and 45, while and so long as such corporation is required by federal law to make application to and procure authority from the interstate commerce commission as a condition precedent to such proposed action. Such corporation, however, shall file with the secretary of state due notice of any increase or other change in its capital stock authorized or issued, and shall pay such fees in respect thereof as may be required by statute; such notice shall be filed, and all fees required shall be paid, within 30 days after due authority has been given by the interstate commerce commission relative to the increase, or other change; no other notice shall be required to be given to the secretary of state by the corporation, and all increases or other changes in the authorized or issued capital stock of any corporation heretofore approved or authorized by the interstate commerce commission, and as to which a copy of the report and order of said commission has been filed with the secretary of state and the fees required by statute have been paid, shall be deemed to have been lawfully authorized, issued, and made regardless of any other statutory provisions relative to notice to the secretary of state of increases or other changes in capital stock of corporations.

118 Me. 376; \*126 Me. 141; 130 Me. 28; 134 Me. 97.

**Sec. 43. Conditions under which public utility may issue stocks, bonds, and notes.** R. S. c. 62, § 42. No public utility shall issue any stocks, bonds, notes, or other evidences of indebtedness unless payable within 1 year from date thereof, for money, property, or services, in payment for the same, either directly or indirectly, until there shall have been recorded upon the books of such public utility the order of the commission as herein provided; and no indebtedness shall in whole or in part, directly or indirectly, be refunded by any issue of stocks or bonds or by any other evidence of indebtedness running for more than 12 months, without the consent of the commission.

\*126 Me. 141; 130 Me. 30.

**Sec. 44. Issuance of stock for organization purposes.** 1931, c. 23. Any public utilities corporation at the time of its organization may issue for organization purposes, without the consent of the commission, not more than 6 shares of stock at par for cash, or, if non-par stock, for the consideration of \$100 per share, such shares when issued to be a part of the total capital issue.

**Sec. 45. No increase or decrease of capital or change of purposes without consent of commission.** R. S. c. 62, § 43. 1931, c. 156. No public utility shall decrease its capital or declare any stock, bond, or scrip dividend, or divide the proceeds of the sale of its own or any stock, bonds, or scrip among stockholders without the consent of the commission, and no change of purposes of a public utility, unless specially chartered, shall become effective until approved by the commission and its certificate of approval filed with the secretary of state within 20 days of the date thereof.

#### Authorization of Leases, Consolidations, and Mortgages

**Sec. 46. Public utilities not to sell, lease, or mortgage, nor acquire stock of other public utilities without authority of commission.** R. S. c. 62, § 44. 1935, c. 30. Any public utility may henceforth sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its property necessary or useful in the performance of its duties to the public, or any franchise or permit, or any right thereunder, or by any means whatsoever, direct or indirect, merge or consolidate its property, franchises, or permits, or any part thereof, with any

other public utility, when, and not otherwise, it shall have first secured from the commission an order authorizing it to do so. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The sale, lease, assignment, mortgage, or other disposition or encumbrance of a franchise or permit under the provisions of this section shall not be construed to revive or validate any lapsed or invalid franchise or permit or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit or to waive any forfeiture. Nothing in this section contained shall be construed to prevent the sale, lease, or other disposition by any public utility of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility shall be conclusively presumed to have been of property which is not necessary or useful in the performance of its duties to the public, as to any purchaser of such property in good faith for value. Nothing in this section shall apply to property, franchises, permits, or rights of any utility owned and operated exclusively outside this state. No public utility shall hereafter purchase or acquire, take, or hold any part of the capital stock of any other public utility organized or existing under or by virtue of the laws of this state without having been first authorized to do so by the commission. Every assignment, transfer, contract, or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this section shall be void and of no effect; and no such transfer shall be made on the books of any public utility. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired or to prevent the acquiring of additional stock by a public utility which now owns a majority of the stock of such other utility. No railroad corporation engaged in interstate commerce shall be required to make application to the commission, or to procure consent, approval, authority, or an order from the commission, as a condition precedent to executing an assignment or mortgage of any of its property, or encumbering the same, when such mortgage, assignment, or encumbrance is executed, or is to be executed, in connection with an issue of securities in respect of which the corporation is required by federal law to make application to and procure authority from the interstate commerce commission as a condition precedent to the issue of such securities.

139 Me. 40.

**Sec. 47. Abandonment of property or service by public utilities; exceptions.** 1933, c. 155. No public utility as defined in this chapter shall abandon all or any part of its plant, property, or system necessary or useful in the performance of its duties to the public, or discontinue the service which it is rendering to the public by the use of such facilities, without first securing the approval of the commission. In granting its approval, the commission may impose such terms, conditions, or requirements as in its judgment are necessary to protect the public interest. Any public utility abandoning all or any part of its plant, property, or system or discontinuing service in pursuance of authority granted by the commission under the provisions of this section shall be deemed to have waived any and all objections to the terms, conditions, or requirements imposed by the commission in that regard. The provisions of this section shall not apply to any railroad corporation engaged in interstate commerce while and so long as such corporation is required by federal law to make application to and procure consent from the interstate commerce commission as a condition precedent to any such abandonment of property or discontinuance of service as is herein contemplated; nor to action under any order of a court having and exercis-

ing jurisdiction over a public utility in bankruptcy, foreclosure, or receivership proceedings.

### Physical Connections

**Sec. 48. Commission may order physical connection of telephone and telegraph lines, and joint rates.** R. S. c. 62, § 45. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telephone companies or two or more telegraph companies whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections, for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone companies have failed to establish joint rates, tolls, or charges for service by or over their said lines, and that joint rates, tolls, or charges ought to be established, the commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conversations between points within the same city or town, and that conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls, and charges to be made, and to be used, observed, and enforced in the future. If such telephone or telegraph companies do not agree upon the division between them of the cost of such physical connection or connections or the division of the joint rates, tolls, or charges established by the commission over such through lines, the commission shall have authority, after further hearing, to establish such division by supplemental order.

129 Me. 243.

**Sec. 49. Commission may require physical connection between electric and steam railroads.** R. S. c. 62, § 46. Whenever it is practicable and the same may be accomplished without endangering the equipment, tracks, or appliances of either party, and whenever and wherever public convenience and interest require the same, the commission may, upon application and after reasonable notice and hearing, require the construction of physical connection between the tracks of any steam railroad company and electric railroad company; the expense of constructing such physical connection may be apportioned by the commission in such manner as it may deem equitable, if the parties to any such petition are themselves unable to agree as to the distribution of the cost of such construction. Said commission may, upon application and reasonable notice and hearing, require any such steam railroad company to permit any electric railroad company to haul, by means of such physical connection, loaded freight cars containing what is called "car-load lots" from the tracks of such steam railroad company to points along the line of said electric railroad company for unloading the contents of such cars by the owners thereof and to haul empty freight cars from the tracks of such steam railroad company onto the tracks of such electric railroad company to be loaded for shipment, and such steam railroad company shall accept each such loaded car and transport the same over its lines in accordance with the proper and lawful billing of the shipper of the contents of any such car. Provided that nothing in this chapter shall be construed to require through billing of freight between steam railroad companies and electric railroad companies; nor as requiring or authorizing said commission to require any electric railroad to engage in interstate commerce.

**Sec. 50. Cars to be hauled over each other's tracks; commission to establish regulations when corporations are unable to agree.** R. S. c. 62, § 47. Whenever a physical connection has been made between the tracks of a steam railroad company and an electric railroad company, either voluntarily or by order of the commission, as provided in the preceding section, such steam railroad company or electric railroad company shall at reasonable times, for reasonable compensation, and under reasonable rules and conditions, draw over their respective tracks the merchandise and cars of the steam railroad company or electric railroad company as the case may be with which such physical connection is so established; provided such cars are of proper gauge, are in good running order, properly equipped and loaded, and otherwise safe for transportation; provided further, if the corporations cannot agree upon the times at which, or the rules and conditions under which, cars shall be drawn, or the compensation to be paid, the commission shall upon petition of either party and notice to the other and after hearing the parties interested, determine the rate of compensation and fix such rules, conditions, and periods, having reference to the convenience and interests of the corporations and of the public to be accommodated thereby. Any agreement entered into between any two or more such corporations under the provisions of this section, or any order of the commission hereunder, shall at all times be subject to annulment, alteration, or modification by said commission after notice and hearing.

**Sec. 51. Auxiliary service, only, intended; steam railroad car to be returned to junction from which received.** R. S. c. 62, § 48. The duties imposed upon carriers and the authority conferred upon the commission by sections 40 and 50 shall extend only to an auxiliary service by electric railroads, and said commission shall not be authorized to require any physical connection or service herein provided for in any case where there are existing steam railroad facilities which can be with reasonable convenience used by the persons who desire the above named electric railroad service. Whenever any steam railroad freight car is hauled onto the rails of any electric railroad company, such car shall be returned to the steam railroad at the same junction point where taken without other use than that for which such car was taken. It shall be the duty of said commission in making any order for physical connection and the service herein provided for to reasonably protect each steam railroad company from "short hauling" itself. Nothing herein contained shall be construed as requiring any common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

129 Me. 245.

**Sec. 52. Railroad not to be required to "short haul" itself.** R. S. c. 62, § 49. In establishing any through route the commission shall not require any company, without its consent, to embrace in any such route substantially less than the entire length of the railroad owned, leased, operated, or controlled by it, or operated in conjunction and under a common management therewith, which lies between the places to be served by such through route.

Nothing herein contained shall be construed to require, or as authorizing the commission to require, any steam railroad to "short haul" itself or to give the use of its tracks or of its terminal facilities to another carrier engaged in a like or similar business.

**Sec. 53. Commission may order joint use of equipment by public utilities.** R. S. c. 62, § 50. Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that public con-

venience and necessity require the use by one public utility of the conduits, subways, tracks, wires, poles, pipes, or other equipment, or any part thereof, on, over, or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes, or other equipment, or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users, of such conduits, subways, tracks, wires, poles, pipes, or other equipment for such damage as may result therefrom to the property of such owner or other users thereof.

### Procedure

**Sec. 54. Complaints against public utilities.** R. S. c. 62, § 51. Upon written complaint made against any public utility by 10 persons, firms, corporations, or associations aggrieved, that any of the rates, tolls, charges, or schedules or any joint rate or rates of any public utility are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice, or act of said public utility is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, being satisfied that the petitioners are responsible and that a hearing is expedient, shall proceed with or without notice, to make an investigation thereof. No order affecting said rates, tolls, charges, schedules, regulations, measurements, practices, or acts complained of shall be entered by the commission without a formal public hearing.

118 Me. 393; 126 Me. 24.

**Sec. 55. Notice of complaint to public utility.** R. S. c. 62, § 52. The commission immediately upon the filing of such complaint shall notify in writing the public utility complained of that a complaint has been made, and of the nature thereof; and if at the expiration of 7 days therefrom such public utility shall not have removed the cause of complaint to the satisfaction of the commission, said commission shall proceed to set a time and place for a hearing as hereinafter provided.

**Sec. 56. Notice to public utility of public hearing.** R. S. c. 62, § 53. The commission shall give the public utility and the complainants at least 7 days' notice of the time and place when and where such formal public hearing will be held. Both the public utility and the complainants shall be entitled to be heard and have process to enforce the attendance of witnesses as in civil actions in the superior court.

**Sec. 57. Decision by commission.** R. S. c. 62, § 54. If upon such formal public hearing the rates, tolls, charges, schedules, or joint rates shall be found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of the provisions of this chapter, the commission shall have power to fix and order substituted therefor such rate or rates, tolls, charges, or schedules as shall be just or reasonable. If upon such public hearing it shall be found that any regulation, measurement, practice, act, or service complained of is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall

have power to establish and substitute therefor such other regulations, measurements, practice, service, or acts, and to make such order respecting and such changes in such regulations, measurements, practice, service, and acts as shall be just and reasonable.

118 Me. 376, 393; 126 Me. 24.

**Sec. 58. Public utility to conform to decision; copies to be furnished by clerk.** R. S. c. 62, § 55. Every public utility to which such order applies shall make such changes in its schedules on file as may be necessary to make the same conform to said order; and no change thereafter shall be made by any public utility in any such rates, tolls, or charges or in any joint rate or rates within 1 year after the date of said order without the approval of the commission. At the expiration of 1 year from the date of said order, and thereafter, no change shall be made by any public utility in any such rates, tolls, or charges or in any joint rate or rates except in accordance with the provisions of section 29. Copies of all orders of the commission, certified by the clerk, shall be delivered to the public utility affected thereby and the same shall take effect within such time thereafter as the commission shall prescribe. The superior court shall have full jurisdiction at law and the supreme judicial court and the superior court in equity, upon application of the commission or of the attorney-general, to enforce all orders of the commission and the performance by public utilities of all duties imposed by law upon them, including the appointment of receivers, agents, and special masters to carry the orders of said courts and of said commission into effect and clothing them with adequate authority therefor.

\*126 Me. 27.

**Sec. 59. Commission may investigate on its own motion; notice to public utility.** R. S. c. 62, § 56. Whenever the commission believes that any rate or charge is unjust or unreasonable or that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any public utility should for any reason be made, it may on its own motion, summarily investigate the same with or without notice. If after making such summary investigation the commission becomes satisfied that sufficient grounds exist to warrant a formal public hearing being ordered as to matters so investigated, it shall furnish such public utility interested a written statement giving notice of the matter under investigation. Seven days after such notice has been given the commission may proceed to set a time and place for a formal public hearing as hereinbefore provided.

118 Me. 393.

**Sec. 60. Notice of public hearing.** R. S. c. 62, § 57. Notice of the time and place of such hearing shall be given to the public utility and to such interested persons as the commission shall deem proper as provided in section 56; and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the commission relative thereto; and like orders may be made in reference thereto as if such investigation had been made on complaint.

118 Me. 376.

**Sec. 61. Complaints, how instituted; reparation or adjustment of excessive rate authorized.** R. S. c. 62, § 58. The commission may institute or any public utility may make complaint as to any matter affecting its own product, service, or charges, with like effect as though made by any 10 persons, firms, corporations, or associations. The commission may authorize reparation or adjustment where the utility admits that a rate charged was excessive or unreasonable, or col-

lected through error, and it appears that the utility has subsequently within 90 days, after the rendering of any service within the state, filed the rate to which the reduction is authorized in place of the rate which is admitted to be excessive or unreasonable; provided, however, that such new rate so published shall continue in force 1 year unless sooner changed by the order or with the consent of the commission. Within 2 years after the rendering of any service within the state by any public utility, for which service a rate, toll, or charge is made by such utility, any person, firm, corporation, or association aggrieved may complain to the commission that the rate, toll, or charge exacted for such service is unjustly discriminatory against him, or it, either because it is higher than that charged by the same utility for the same service, or service of similar value and cost, rendered to other users or consumers thereof, or because the utility has failed, without reasonable cause, to make a more favorable rate, toll, or charge, published by it for the same or a similar service, as aforesaid, applicable to the said user or consumer, or to the class of users or consumers to which he or it belongs, or at the place at which said service is rendered. Within 6 months after an order has been made authorizing reparation or adjustment under the 2nd sentence of this section, any person, firm, corporation, or association aggrieved may complain to the commission that he or it is entitled to reparation from the same utility by reason of the payment of the same rates which said utility admits are excessive or unreasonable, or collected through error; provided said utility might lawfully have been permitted to make such reparation on its own petition, and, provided further, such person, firm, corporation, or association shall have made written request for such utility to file its own petition for authority to make such reparation or adjustment not less than 30 days before filing the aforesaid complaint. Upon receipt of either of the aforesaid complaints the commission shall make such investigation as it deems necessary to determine whether a hearing ought to be given thereon. It may order a hearing upon such notice to said utility as it deems just and reasonable. If, upon such hearing, the commission shall decide that the complainant has been injured in either of the ways herein mentioned, it shall find what sum said utility ought to refund or repay to said complainant on account thereof, which said sum said utility shall have the right to refund. If it shall refuse or neglect to make such refund within 30 days, the party aggrieved thereby may maintain an action in the courts of this state to recover said amount, and in the trial thereof the findings of this commission shall be prima facie evidence of the truth of the facts found by it, and no utility shall be permitted to avail itself of the defense of such action that the service involved was in fact made on the published tariff rate in force at the time it was rendered; but no utility making a refund upon the order of the commission or pursuant to judgment of the court as herein provided, shall be liable for any penalty or forfeiture, or subject to any prosecution under the laws of this state on account of making such refund.

118 Me. 393; \*126 Me. 27.

Sec. 62. Each commissioner may administer oaths, hold hearings, etc., and issue necessary orders and processes; appointment of examiners; salary. R. S. c. 62, § 59. 1931, c. 140. 1937, c. 50. Each of the commissioners, for the purposes mentioned in this chapter, may hold hearings and conduct investigations, administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents, and testimony, punish by fine and imprisonment for contempt, and issue all processes necessary to the performance of the duties of the commission. Said commission shall have power to appoint, to serve during its pleasure, examiners, who, being

first duly sworn, shall have authority to administer oaths, examine witnesses, issue subpoenas, require the production of books, accounts, papers, documents, and testimony, and receive evidence in any matter under the jurisdiction of the commission, and shall perform such other duties as may be assigned to them. Evidence so taken and received shall have the same force and effect as though taken and received by said commission, and shall authorize action by said commission as though by it taken and received. When objection is made to the admissibility of evidence the examiners shall note the same with the reasons therefor and incorporate such notation and reasons in their reports of the evidence according to the practice in taking depositions. The commission shall disregard or consider the evidence so objected to according to the rules governing the taking of evidence before the commission, and shall report its rulings thereon in its decision of the case. The commission shall fix the salary of said examiners.

118 Me. 393.

**Sec. 63. Witnesses and fees.** R. S. c. 62, § 60. Each witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the superior court, which shall be audited and paid by the state in the same manner as other state expenses are audited and paid upon the presentation of proper vouchers approved by the commission. Provided, however, that in all investigations under the provisions of section 41, where the public utility is a common carrier of persons, it shall transport all witnesses over its lines free of charge under such regulations as the commission may establish; and provided further, that there shall be deducted from the mileage allowed witnesses under the provisions of this section who travel, or may travel, to and from the place of hearing on any pass or other form of free transportation, a sum equal to the fare to and from said place at the lowest published rates for single trip or return trip tickets.

**Sec. 64. Depositions.** R. S. c. 62, § 61. The commission or any party may, in any formal public hearing, use the deposition of witnesses residing within or outside the state; such depositions shall be taken in the manner prescribed by law for taking depositions in civil actions in the superior court.

118 Me. 393.

**Sec. 65. Record of proceedings.** R. S. c. 62, § 62. 1937, c. 221. A full and complete record shall be kept of all proceedings had before the commission and of any investigation or formal public hearing and all testimony shall be taken by a stenographer to be appointed by the commission subject to the provisions of the personnel law.

**Sec. 66. Questions of law may be raised on exceptions to rulings; decision certified to clerk of commission.** R. S. c. 62, § 63. 1931, c. 116. 1933, c. 6. Questions of law may be raised by alleging exceptions to the ruling of the commission on an agreed statement of facts, or on facts found by the commission, and such exceptions shall be allowed by the chairman of the commission and certified by the clerk thereof to the next term of the law court to be entered on the docket thereof and argued and determined according to the rules of procedure in said court. The result shall be certified by the clerk of the law court to the clerk of the commission and to the clerk of the superior court for Kennebec county, the prevailing party to recover costs to be taxed by said superior court in accordance with the provisions of law for the taxation of costs in appealed

cases; execution for such costs shall be issued from the superior court of Kennebec county in the same manner as in cases originating therein.

118 Me. 382; 121 Me. 422; 123 Me. 383, 389; 125 Me. 141; 126 Me. 141; 128 Me. 531; 129 Me. 243; 130 Me. 28; 133 Me. 4; 136 Me. 406, 423; 137 Me. 320.

**Sec. 67. Exceptions do not stay order of the commission.** R. S. c. 62, § 64. While questions of law are pending on exceptions to a ruling of the commission, as provided in the preceding section, no injunction shall issue suspending or staying any order of the commission and said exceptions shall not excuse any person or corporation from complying with and obeying any order or decision, or any requirement of any order or decision of the commission or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the commission may order and direct.

**Sec. 68. Commission may alter or amend orders.** R. S. c. 62, § 65. The commission may at any time upon notice to the public utility and after opportunity to be heard as provided in section 56, rescind, alter, or amend any order fixing any rate or rates, tolls, charges, or schedules or any other order made by the commission, or any decision, order, or decree of the railroad commissioners, and certified copies of the same shall be served and take effect as herein provided for original orders.

**Sec. 69. Burden of proof.** R. S. c. 62, § 66. In all trials, actions, and proceedings arising under the provisions of this chapter or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to the commission or seeking to set aside any determination, requirement, direction, or order of said commission complained of as unreasonable, unjust, or unlawful as the case may be. In all original proceedings before said commission where an increase in rates, tolls, charges, or schedules, or joint rate or rates is complained of, the burden of proof shall be upon the public utility to show that such increase is just and reasonable.

118 Me. 382, 397; 121 Me. 422; 123 Me. 383, 389; 125 Me. 141; 126 Me. 141.

**Sec. 70. Practice and rules of evidence; service of process.** R. S. c. 62, § 67. In all actions and proceedings arising under the provisions of this chapter, all processes shall be served and the practice and rules of evidence shall be the same as in civil actions in the superior court except as otherwise herein provided. Every sheriff or other officer empowered to execute civil processes may execute any process issued under the provisions of this chapter and shall receive such compensation therefor as may be prescribed by law for similar service.

125 Me. 141; 133 Me. 4; 134 Me. 349.

**Sec. 71. Witness not excused from testifying because of incrimination; immunity from prosecution.** R. S. c. 62, § 68. No person shall be excused from testifying or from producing books, accounts, and papers in any proceeding based on or growing out of the provisions of this chapter on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or to subject him to a penalty or forfeiture; and no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may have testified or produced any documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for perjury.

**Sec. 72. Certified copies of all orders furnished.** R. S. c. 62, § 69. Upon application of any person and upon payment therefor as the commission may by rule provide, the commission shall furnish certified copies under the seal of the commission of any order made by it, which shall be evidence of the facts stated therein.

**Sec. 73. Commission may temporarily suspend, alter, or amend orders.** R. S. c. 62, § 70. Whenever the commission shall deem it necessary in order to prevent injury to the business of any public utility or to the interest of the people, or in case of any emergency which the commission may adjudge to exist, it shall have power, temporarily, to alter, amend, or, with the consent of the public utility concerned, suspend any existing rates, schedules, or orders relating to or affecting any public utility. Such rates so made by the commission shall apply to one or more of the public utilities in this state or to any portion thereof as may be directed by the commission, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commission.

125 Me. 143; 134 Me. 351.

**Sec. 74. Utility to first apply to commission for rights; application to legislature to allege a denial by the commission.** R. S. c. 62, § 71. No public utility shall apply to the legislature to grant it any right, privilege, or immunity which the commission has power to grant to said utility until said utility shall first have exhausted its rights in that behalf before said commission; and in making such application to the legislature said utility shall make a statement in writing which shall accompany the proposed legislation, that it has applied to said commission for the right, privilege, or immunity requested and that said commission has denied its application.

**Sec. 75. Substantial compliance with law, sufficient; no waiver of right of action.** R. S. c. 62, § 72. A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all rules, orders, acts, and regulations of the commission and they shall not be declared inoperative, illegal, or void for any omission of a technical or immaterial nature in respect thereto. This chapter shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty, or forfeiture which may have arisen or which may hereafter arise under any law of this state.

#### Civil Liability of Utility

**Sec. 76. Utility liable in damages in civil action.** R. S. c. 62, § 74. If any public utility shall do or cause to be done or permit to be done any matter, act, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing required to be done by it, such public utility shall be liable in damages to the person, association, or corporation injured thereby; provided that any recovery as in this section provided shall in no manner affect a recovery by the state of the penalty prescribed for such violation.

#### General Penalties

**Sec. 77. Contempt punished.** R. S. c. 62, § 73. Every public utility, corporation, or person failing to observe, obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement, or any part or portion thereof, of the commission or of any commissioner shall be in contempt of the commission and shall be punishable by the commission for contempt in the same manner and

to the same extent as contempt is punished by courts of record. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in this chapter, but shall be cumulative and in addition to such other remedy or remedies.

136 Me. 175.

**Sec. 78. Failure or refusal to obey orders, or to comply with the law; penalty.** R. S. c. 62, § 75. Any officer, agent, or employee of any public utility who shall wilfully fail or refuse to fill out and return any blanks required by this chapter, or shall wilfully fail or refuse to answer any question therein propounded, or shall knowingly or wilfully give a false answer to any such question, or shall wilfully evade the answer to any question where the fact inquired of is within his knowledge, or who shall, upon proper demand, wilfully fail or refuse to exhibit to the commission or to any commissioner or to any person authorized to examine the same, any book, paper, account, record, or memorandum of such public utility which is in his possession or under his control, or who shall wilfully fail properly to use and keep his system of accounting or any part thereof as prescribed by the commission, or who shall wilfully refuse to do any act or thing in connection with such system of accounting when and as directed by the commission, shall upon conviction thereof be punished by a fine of not more than \$1,000 for each offense. A penalty of not more than \$1,000 shall be recovered from the public utility for each such offense when such officer, agent, or employee acted in obedience to the direction, instruction, or request of such public utility or any owner or general officer thereof.

**Sec. 79. Each day's violation of order, a distinct offense.** R. S. c. 62, § 76. Every day during which any public utility or any officer, agent, or employee thereof shall wilfully fail to observe or comply with any order of the commission or to perform any order of the commission or to perform any duty enjoined by the provisions of this chapter shall constitute a separate and distinct offense.

**Sec. 80. Illegal issue, or misappropriation of proceeds of sale of stocks, bonds, and notes; penalty.** R. S. c. 62, § 77. Any director or officer of any public utility who shall directly or indirectly issue or cause to be issued any stocks, bonds, notes, or other evidences of indebtedness contrary to the provisions of this chapter, or who shall apply the proceeds from the sale thereof to any other purpose than that specified in the order of the commission, as herein provided, shall, upon conviction thereof, be punished by imprisonment for not less than 1 year, nor more than 10 years.

**Sec. 81. False statement as to issue of stocks, bonds, and notes; penalty.** R. S. c. 62, § 78. Any officer, owner, or agent of any public utility who shall knowingly or wilfully make any false statement to secure the issue of any stock, bond, or other evidence of indebtedness, or who shall, by false statement knowingly or wilfully made, procure of the commission the making of the order herein provided, or issue with knowledge of such fraud, negotiate or cause to be negotiated any such stock, bond, note, or other evidence of indebtedness in violation of the provisions of this chapter, shall, upon conviction thereof, be punished by a fine of not less than \$500, or by imprisonment for not less than 1 year, nor more than 10 years, or by both such fine and imprisonment.

**Sec. 82. Punishment when no penalty has been provided.** R. S. c. 62, § 82. If any public utility shall wilfully violate any provision of this chapter or shall do any act herein prohibited or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided or shall fail or refuse to obey

any lawful requirement or order made by the commission, for any such violation, failure, or refusal such public utility shall forfeit and pay into the state treasury not more than \$1,000 for each offense to be recovered in an action on the case in the name of the state. In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any public utility acting within the scope of his employment shall in every case be deemed to be the act, omission, or failure of such public utility.

136 Me. 175.

## CHAPTER 41.

### ORGANIZATION AND CONSTRUCTION OF STEAM RAILROADS.

Sections 1-25	Organization of Railroad Corporations.
Sections 26-31	Real Estate, How and for What Purposes Taken.
Sections 32-41	Estimation, Amount, and Payment of Damages.
Sections 42-47	Towns May Aid in Construction of Railroads.
Section 48	Contractors' Laborers Protected.
Sections 49-62	Inspection and Supervision by Public Utilities Commission.
Sections 63-79	Crossings and Bridges.

#### Organization of Railroad Corporations

**Sec. 1. Organization of railroad companies.** R. S. c. 63, § 1. Any number of persons not less than 10, a majority of whom shall be citizens of the state, may form a company for the purpose of constructing, maintaining, and operating a railroad for public use in the conveyance of persons and property within the state, and for that purpose may make and sign articles of association in which shall be stated the name of the company, the gauge of the road, the places from which and to which the road is to be constructed, maintained, and operated, the length of such road, as nearly as may be, and the name of each town and county in the state through which or into which it is to be made; the amount of the capital stock, which shall not be less than \$6,000 for every mile of road proposed to be constructed of the gauge of 4 feet 8½ inches, nor less than \$3,000 a mile for a narrower gauge, the number of shares of which said stock shall consist, and the names and places of residence of at least 5 persons, a majority of whom shall be citizens of the state, who shall act as directors of the proposed company and manage its affairs until others are chosen in their places. Each subscriber shall sign his name, residence, and the number of shares which he agrees to take in said company.

\*110 Me. 285.

**Sec. 2. Requirements as to stock before articles are filed.** R. S. c. 63, § 2. The articles of association shall not be filed and recorded in the manner provided in the following section until the capital stock named in section 1 has been subscribed thereto, in good faith, by responsible parties, and 5% paid thereon in cash to the directors named in said articles, nor until there is indorsed thereon or annexed thereto, an affidavit made by a majority of the directors named therein, that the amount of stock required by the provisions of this section has been in