

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

city shall be entitled to the benefits of the preceding section. (R. S. c. 38, § 28. 1955, c. 185, § 14.)

Effect of amendment.—The 1955 amendment deleted a former proviso appearing at the end of the section and relating to certain books and documents remaining the property of the municipality.

Sec. 35. Custody of public documents; list of books purchased with state stipend.—The officers of every free public library, on or before the 1st day of May of each year, shall send to the librarian of the state library a report containing a list of all books and documents purchased with the state stipend for the preceding year. The aid from the state, provided by section 33, shall be withheld from any city, town or village corporation until the report herein required to be made shall have been received by the librarian of the state library; and the same shall also be withheld unless said report shall show that the laws and Maine reports furnished by the state are kept constantly in said library for the free use and benefit of all the citizens. (R. S. c. 38, § 29. 1949, c. 153, § 6. 1955, c. 185, § 15.)

Effect of amendment.—The 1955 amendment deleted in the first sentence provisions relating to laws, Maine reports and other documents required to be transmitted by the state librarian and kept in the public library. It also deleted in the second sentence the words “and other documents,” formerly appearing after “Maine reports,” inserted the word “constantly” and substituted at the end of the sentence the words “for the free use and benefit of all the citizens” for the words “as required by this section.”

Chapter 44.

Public Utilities Commission.

Appointment, General Authority and Duties.

Sec. 2. Members and employees not to be connected with any public utility, nor shall commissioner hold other office; removal.—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 16, 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 coordinator of atomic development activities or the office of justice of the peace or notary public, nor shall he serve on or under any committee of any political party. Any willful 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. (R. S. c. 40, § 2. 1955, c. 105, § 2.)

Effect of amendment.—The 1955 amendment inserted in the second sentence the reference to the office of coordinator of atomic development activities.

Sec. 13. Advice for purification of water supply and disposal of sewage; complaints of pollution, procedure, appeal; jurisdiction; assistants.—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 sewage 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, water districts, sewer districts and water companies shall submit to said commission for its advice their proposed new system of water supply or of the disposal of drainage or sewage, prior to solicitation of bids for construction thereof or, if bids are not to be solicited, prior to actual construction thereof, but they shall not be required to submit to the commission for such advice any proposed repair, alteration, relocation or extension of their existing system of water supply or of the disposal of drainage or sewage. In this section the term "drainage" means rainfall, surface and subsoil water only, and "sewage" means domestic and manufacturing filth and refuse.

(1955, c. 298.)

Effect of amendment.—The 1955 amendment rewrote the fourth sentence of the first paragraph. As the rest of the section

was not changed by the amendment, only the first paragraph is set out.

Definitions.

Sec. 16. Definitions.

IX-A. "Natural gas pipe line company" includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning or operating for compensation within this state any pipe line, including pumping stations, storage depots and other facilities, for the transportation, distribution or sale of natural gas. (1955, c. 127, § 2)

XII. "Public utility" includes every common carrier, gas company, natural gas pipe line 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. (1955, c. 127, § 1)

XXIV. "Vessel" includes every steamboat or boat powered by Diesel engines which is owned, controlled, operated or managed for public use in the transportation of persons or property for compensation within this state. (1955, c. 43)

Effect of amendments.—The first 1955 amendment inserted the words "or boat powered by Diesel engines" in subsection XXIV. The second 1955 amendment added subsection IX-A and inserted the

words "natural gas pipe line company" near the beginning of subsection XII. As the rest of the section was not changed by the amendments, only subsections IX-A, XII and XXIV are set out.

Rates and Accounting.

Sec. 17. Public utility to furnish safe and reasonable facilities; charges reasonable and just.

The 1953 amendments to this section and § 18 elaborated as to procedural matters, but did not change the basic sub-

stantive law. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

Sec. 18. Valuation of property made for fixing rates.

The 1953 amendment did not change substantive law.—P. L., 1953, Chap. 337, amending this section and enumerating certain factors to be taken into consideration for rate making purposes, does not change the substantive law; it merely clar-

ifies and amplifies the procedural requirements to effectuate what has long been the accepted law of this state. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

Commission is judge of weight to be

given to evidence.—The requirement that the commission give “due consideration” to evidence tending to establish any factor of fair value does not mean that the commission is not the judge of the weight to be given to the proffered evidence. Nor does it mean that equal weight must be given to each factor proven. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

But commission may not proceed with a closed mind.—The commission may not proceed with a closed mind and no disposition to be convinced by unimpeachable evidence. “Due consideration” requires at least reasonable and fair consideration, and once a factor is well proven, not only must the commission give consideration to it, but such factor must find reflection in the finding of value. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

And arbitrary and capricious disregard of evidence may be reversible error.—Arbitrary and capricious disregard by the commission of a factor established by legislative mandate, or of evidence tending to prove such a factor, is reversible error. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

“Current value” must be considered.—Where “current value” is the only factor which in any way reflects the greatly increased costs which seem to have become implemented into our economy, it is not

enough to give mere token recognition of such a factor imposed by legislative mandate. The factor, properly determined, must find appreciable reflection in the end result. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

And must include consideration of reproduction cost less depreciation.—The “current value” factor must include a proper consideration of reproduction cost less depreciation. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

The words “current value thereof less depreciation” in this section apply only to “original cost” and “prudent acquisition cost” factors and not to “current value” which in and of itself reflects depreciation. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

The “prudent acquisition cost less depreciation” factor is intended to reflect the difference between original cost and the amount invested upon acquisition. The company has the burden of proving its prudence in acquiring property. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

The “cost” referred to in the “original cost less depreciation factor” is taken as of the time when the property was first devoted to public use. *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

Procedure.

Sec. 58. Decision; extension of service of public utility organized by special act.

The commission may authorize any public utility organized by special act of the legislature, to furnish or extend its service in, to or through any city or town notwithstanding any territorial limitations, express or implied, in the special act of the legislature by which it was organized, or in any special act of the legislature under which it is enfranchised, and the powers and limitations of the commission, hereby made applicable hereunder, shall be those applicable by law in like cases concerning public utilities organized under the provisions of sections 8 to 15, inclusive, of chapter 53. Any public utility organized by special act of the legislature which is authorized hereunder in respect of service in, to or through any city or town not named in a special act of the legislature as among the cities or towns to be served by it, shall, within 20 days after final authorization of the commission as aforesaid, file with the secretary of state a certificate exhibiting such authorization of the commission, and thereupon the power to serve as therein provided shall take and be of effect. On filing such certificate there shall be paid to the secretary of state for the use of the state the sum of \$20. Nothing in this section shall be construed to apply to common carriers by railroad which are subject to the jurisdiction of the interstate commerce commission. (R. S. c. 40, § 57. 1955, c. 186.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

Sec. 61. Notice of public hearing.

Whenever any public utility, except a common carrier or carrier of persons or property for hire, has been notified by the commission that a public hearing will be held as provided in section 35 or section 57 and it appears to the commission that reasonable publicity has not or will not be given, by newspaper publication or otherwise, of the time and place of said hearing and the general nature thereof, the commission, in its discretion, may, by written notice to such public utility, require it to give such reasonable notice as the commission shall specify of the time and place of such public hearing to each of the subscribers affected or to be affected by such rates or service and to file at the same time in the office of the clerk of the municipalities wherein such subscribers reside such pertinent information as the commission may prescribe as to rates and services involved, including schedules of any proposed rates. Such notice by said public utility shall be given by first class mail and shall include a statement that such pertinent information as to such rates or service is on file in the office of the clerk of the municipality wherein such subscriber resides. Nothing in this section shall relieve such utility from the provisions of section 31. (R. S. c. 40, § 60. 1955, c. 202.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

Sec. 66. Record of proceedings.—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 hearings reporter to be appointed by the commission subject to the provisions of the personnel law. (R. S. c. 40, § 65. 1955, c. 50.)

Effect of amendment.—The 1955 amendment substituted the words "hearings reporter" for the word "stenographer."

Sec. 71. Burden of proof.

Applied in *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 109 A. (2d) 512.

Chapter 45.**Steam Railroads—Organization and Construction.**

Section 80. Minimum Distance for Clearance.

Minimum Distance for Clearance.

Sec. 80. Minimum distance for clearance.—The public utilities commission shall have the right to prescribe a minimum distance for clearance of any structure, pole or other object over or beside any railroad track; provided, however, that the provisions of this section shall not apply to any structure, pole or other object in existence over or beside any railroad track on or before September 1, 1955. (1955, c. 259.)

Chapter 46.**Steam Railroads—Management and Operation.****Safety Provisions.**

Sec. 77. Repealed by Public Laws 1955, c. 52.

Sec. 90. Crossing designated.—The public utilities commission shall