

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

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

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

Such payment shall be made to the municipality where the library is situated. (R. S. c. 38, § 27 1955, c. 185, § 13.)

Effect of amendment.—The 1955 amendment rewrote this section.

Sec. 34. Libraries controlled by associations assisted by towns.—Any town or city in which there is a library owned or controlled by a corporation or association or by trustees may levy and assess a tax and make appropriation therefrom annually to procure from such library the free use of its books for all the inhabitants of the town or city, under such restrictions and regulations as shall insure the safety and good usage of the books; and such library shall then be considered a free public library within the meaning of this chapter and said town or 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. 1. Appointment of commissioners; tenure; vacancies; clerks; office and equipment; salary; expenses.

The chairman shall receive a salary of \$10,125 per year, and the other commissioners a salary of \$9,575 each per year. 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. (R. S. c. 40, § 1. 1949, c. 15. 1951, c. 412, § 13. 1953, c. 416, § 1. 1957, c. 418, § 16.)

Effect of amendment. — The 1957 amendment, effective July 1, 1957, increased the salary of the chairman from \$9,000 to \$10,125 and of the other members from \$8,500 to \$9,575. As the first paragraph was not changed by the amendment, it is not set out.

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. 10. Authorized to confer with United States geological survey.—The commission may confer with the director or the representative of the United States geological survey and accept its cooperation in the prosecution of hydrologic and geological surveys, and the preparation of a contour topographic survey and map of the state. (R. S. c. 40, § 10. 1957, c. 369, § 1.)

Effect of amendment.—The 1957 amendment substituted “hydrologic” for “hydrographic” appropriated from the general fund the sum of \$6,000 for the fiscal year ending June 30, 1958, and the sum of \$6,000 for the fiscal year ending June 30, 1959, to carry out the purposes of this act.”

Editor’s note.—P. L. 1957, c. 369, which amended this section, provided in section 2 thereof as follows: “There is hereby

Sec. 13. Commission to approve cost of construction of water system, method of financing and engineering standards.—All municipalities, persons, corporations and water districts, before commencing construction of any new water system or any major addition to or alteration of an existing water system, shall file with the commission, in accordance with rules and regulations to be issued by it, and to the extent required by such rules and regulations, plans and specifications for such construction, additions or alteration for the advice of the commission as to cost, method of financing and adherence to proper engineering standards. (R. S. c. 40, § 13. 1949, c. 267. 1955, c. 298. 1957, c. 295.)

Effect of amendment.—The 1957 amendment rewrote this section.

Sec. 15. Repealed by Public Laws 1957, c. 85, § 1.

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)

XVII. Repealed by Public Laws 1957, c. 85, § 2.

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.

The 1957 amendment repealed subsection XVII. As the rest of the section was not changed by the amendments, only subsections IX-A, XII, XVII and XXIV are set out.

Rates and Accounting.

Sec. 17. Public utility to furnish safe and reasonable facilities; charges reasonable and just.—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 just and reasonable. In determining just and reasonable rates, the commission shall provide such revenues to the utility as may be required to perform its public service and to attract necessary capital on just and reasonable terms. Every unjust or unreasonable charge for such service is prohibited and declared unlawful. (R. S. c. 40, § 16. 1953, c. 377, § 1. 1957, c. 400, § 1.)

Effect of amendment.—The 1957 amendment inserted the third sentence.

The 1953 amendments to this section and § 18 elaborated as to procedural mat-

ters, but did not change the basic substantive 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.—In determining reasonable and just rates, tolls and charges, 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 and a fair return thereon. In fixing such reasonable value, the commission shall give due consideration to evidence of the cost of the property when first devoted to public use, prudent acquisition cost to the utility, less depreciation on each, and any other factors or evidence material and relevant thereto but such other factors shall not include current value. In making such valuation, the commission may avail itself of any reports, records or other information available to it in the office of any state officer or board. (R. S. c. 40, § 17. 1953, c. 377, § 2. 1957, c. 400, § 2.)

Effect of amendment.—The 1957 amendment deleted "current value thereof" which formerly preceded the words "less depreciation" in the second sentence and inserted "but such other factors shall not include current value" at the end of such sentence.

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 clarifies 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 dis-

position 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.

Consideration of "current value."—For

case decided prior to 1957 amendment, see *Central Maine Power Co. v. Public Utilities Comm.*, 150 Me. 257, 190 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.

Approval of Stocks, Bonds and Notes.

Sec. 43. Issue of stocks, bonds and notes by public utilities.

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 44 and 46, 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 the issue of securities. 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. (R. S. c. 40, § 42. 1957, c. 84.)

Effect of amendment.—Prior to the 1957 amendment the condition precedent was the proposed action rather than the issue of securities.

Procedure.

Sec. 55. Complaints against Public Utilities.

Cited in *In re Central Maine Power Co.*, 152 Me. 32, 122 A. (2d) 541.

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. 62. Complaints; reparation or adjustment of excessive rate.

Utility rates established by contract may be set aside by the commission when the rates are no longer fair. Such rates are presumed to be reasonable and just until otherwise determined. The burden is upon the petitioner to establish before the commission the need for revision of the rates. In re Central Maine Power Co., 152 Me. 32, 122 A. (2d) 541.

Sec. 63. Hearings; oaths; orders and processes; examiners.

Rules of evidence.—On hearings before the public utilities commission the ordinary rules of evidence apply, yet the mere erroneous admission or exclusion of evidence will not invalidate an order of the commission. Substantial prejudice must be affirmatively shown. Application of Ballard, 152 Me. 158, 125 A. (2d) 861.

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. 67. Questions of law raised on exceptions to rulings; decision certified to clerk of commission.

And specifically shown wherein exceptant is aggrieved.

In accord with 3rd paragraph in original. See Application of Ballard, 152 Me. 158, 125 A. (2d) 861.

Judgment of commission as to public policy, etc.

In accord with original. See Application of Ballard, 152 Me. 158, 125 A. (2d) 861.

Decisions of commission on questions of fact will not be disturbed.

In accord with 1st paragraph in original. See In re Chapman, 151 Me. 68, 116 A. (2d) 130; Application of Ballard, 152 Me. 158, 125 A. (2d) 861.

In accord with 2nd paragraph in original. See In re Central Maine Power Co., 152 Me. 32, 122 A. (2d) 541.

But they must be supported by substantial evidence.

In accord with original. See In re Chapman, 151 Me. 68, 116 A. (2d) 130.

When the commission decides a case before it without evidence, or on inadmis-

sible evidence, or improperly interprets the evidence before it, then the question becomes one of law. In re Chapman, 151 Me. 68, 116 A. (2d) 130.

And the record of testimony must contain such evidence.

Whether, on the record, any factual finding, underlying order and requirement, is warranted by law, is a question of law, reviewable on exceptions. Hamilton v. Caribou, etc., Co., 121 Me. 422, 117 A. 582; Application of Ballard, 152 Me. 158, 125 A. (2d) 861.

Commission has duty to set forth facts on which its order is based.—It is clearly the duty of the commission under this section at least, if requested by any of the interested parties, to set forth in its orders and decrees the facts on which its order is based, otherwise the remedy provided by the statute for any erroneous rulings of law may be rendered futile. In re Central Maine Power Co., 152 Me. 32, 122 A. (2d) 541.

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.

Sections 60 to 98-A. Safety Provisions.

Safety Provisions.

Sec. 75-A. Walks and handrails on railroad bridges.—The public utilities commission shall have the right, upon complaint and after hearing, to