

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 742

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ELEVEN.

AN ACT to create the Public Utilities Commission of Maine
and define its duties.

Be it enacted by the People, of the State of Maine, as follows :

Section 1. The Governor with the advice and consent of
2 his Council shall appoint three public utility commissioners
3 who shall act as a board, which said board shall be known
4 as The Public Utilities Commission of Maine. Said board
5 shall be provided with an office at the State House at August-
6 ta and suitable rooms for hearing in which its records shall
7 be kept and may, under the direction of the Governor and
8 Council and with their consent expend such sums of money
9 as are necessary in the purchase of books, maps, stationery
10 and office supplies and in procuring statistics and informa-
11 tion and in defraying expenses incidental and necessary to
12 the discharge of its duties. A statement of such expenses

13 shall accompany its annual report. Said board shall also
14 have a clerk and an assistant clerk, both of whom shall be
15 appointed by the Governor on the recommendation of the
16 board. The clerk shall keep a full and minute record of the
17 proceedings of the board which shall at all times be subject
18 to public inspection. The assistant clerk shall assist the
19 clerk in the performance of his duties and in the absence of
20 the clerk shall have the same powers as the clerk.

Sect. 2. The office of the Railroad Commissioner and the
2 board created and known as the Railroad Commissioners
3 are hereby abolished and all of the powers now vested in
4 said board, together with all the duties and privileges now
5 imposed or conferred upon said board by and under existing
6 laws are hereby imposed and conferred upon the Public Util-
7 ities Commission of Maine, hereby created. All proceed-
8 ings pending before the Railroad Commissioners at the time
9 this act takes effect shall be transferred to the docket of
10 The Public Utilities Commission of Maine and be re-heard
11 or decided by it as justice may require. All the existing
12 decisions, orders and decrees of the Railroad Commission
13 in force when this act takes effect shall continue in force as
14 if previously decided by The Public Utilities Commission of
15 Maine.

Sect. 3. One member of said commission shall be desig-
2 nated by the Governor as chairman, and said chairman shall
3 receive an annual salary of five thousand dollars; each of
4 the remaining members shall receive an annual salary of

5 four thousand dollars, and the commissioners and their as-
6 sistants shall receive actual traveling expenses, when travel-
7 ing on the business of the state. The chairman of the com-
8 mission first appointed shall hold office for six years, and
9 the other members thereof shall hold office for four and
10 two years respectively, and the term of each shall be desig-
11 nated by the Governor. All members thereafter appointed
12 shall hold office for six years.

Sect. 4. A majority of the commissioners shall constitute
2 a quorum to transact business and a vacancy or vacancies
3 shall not impair the rights of the remaining commissioners
4 to exercise all of the powers of the commission provided
5 that a majority remains. The Governor and Council are
6 authorized to fill any and all vacancies occurring on said
7 commission in the same way as by original appointment. By
8 consent of the parties any investigation, inquiry or hearing
9 which the commission is authorized to hold or undertake
10 may be held or undertaken by or before any one member
11 of the commission and when approved and confirmed by
12 the commission and so shown on its records shall be deemed
13 to be the decision and order of the commission.

Sect. 5. The commission may adopt reasonable and proper
2 rules and regulations governing its proceedings and the mode
3 and manner of all investigations, audits, inspection and hear-
4 ings.

Sect. 6. The term "commission" when use^d in this act
2 means "The Public Utilities Commission of Maine." The

3 term "commissioner" means one of the members of said
4 commission. The term "Public Utility" as used in this act
5 shall mean and embrace every individual, associations of
6 individuals, corporations, company, their lessees, trustees,
7 or receivers that now or hereafter may own, operate, man-
8 age or control any railroad, either operated for freight busi-
9 ness or passenger business or both, whether propelled by
10 steam or otherwise; or that may conduct a parlor, sleeping,
11 heating or refrigerator car business; or that may conduct an
12 express business or be engaged in the conveyance of tele-
13 phone or telegraph messages or the production, transmission
14 delivery or furnishing of heat, light, water or power, to the
15 public, but the term "Public Utility" shall not include any
16 plant owned or operated by a city, town or village corpora-
17 tion, or any corporation chartered under the laws of this
18 state but not engaged in any public service in this state;
19 nor shall the words "service" or "services" include the sale,
20 repair or installation of fixtures and appliances by any pub-
21 lic utility, or piping, trenching or wiring done by it under
22 contract.

Sect. 7. Every public utility is required to furnish reason-
2 ably adequate service and facilities. The charge made by
3 any public utility for any service rendered by it shall be rea-
4 sonable and just, taking into due consideration the fair value
5 of all its property with a fair return thereon, rights, and a
6 plant as a going concern, business risk and depreciation, and

7 every unjust or unreasonable charge for such service is pro-
8 hibited and declared unlawful.

Sect. 8. Each public utility shall have an office in one of
2 the towns, or cities in this state in which its property or
3 some part thereof is located, and shall keep in said office all
4 such books, accounts, papers and records relating to the busi-
5 ness in the state as shall be required by the commission to
6 be kept within the state. No books, accounts, papers or
7 records required by the commission to be kept within the
8 state shall be at any time removed from the state, except
9 upon such conditions as may be prescribed by the commis-
10 sion.

Sect. 9. The accounts shall be closed annually on the 31st
2 day of Decmber and a balance sheet of that date promptly
3 taken therefrom. On or before the first day of March fol-
4 lowing, such balance sheet together with such other informa-
5 tion as the commission shall prescribe, verified by an officer
6 of the public utility, shall be filed with the commission.

Sect. 10. Every public utility shall file with the commis-
2 sion within a time to be fixed by the commission, schedules
3 which shall be open to public inspection, showing all rates,
4 tolls and charges which it has established and which are in
5 force at the time for any service performed by it within the
6 state, or for any service in connection therewith or per-
7 formed by any public utility controlled or operated by it.
8 The rates, tolls and charges shown on the schedules shall

9 not exceed the rates, tolls and charges in force on September
10 1st, 1911.

Sect. 11. Every public utility shall file with and as a part
2 of such schedule all rules and regulations that in any man-
3 ner affect the rates charged or to be charged for any ser-
4 vice.

Sect. 12. A copy of so much of said schedules as the com-
2 mission shall deem necessary for the use of the public shall
3 be printed in plain type, and kept on file in every station or
4 office of such public utility where payments are made by the
5 consumers or users, open to the public, in such form and
6 place as to be readily accessible to the public and as can be
7 easily inspected.

Sect. 13. Where a schedule of joint rates or charges is
2 or may be in force between two or more public utilities, such
3 schedules shall in like manner be printed and filed with the
4 commission and so much thereof as the commission shall
5 deem necessary for the use of the public shall be filed in
6 every such station or office as provided in section twelve of
7 this act.

Sect. 14. No change shall hereafter be made in any sched-
2 ule, including schedules of joint rates, except upon ten days'
3 notice to the commission, and all such changes shall be plain-
4 ly indicated upon existing schedules, or by filing new sched-
5 ules in lieu thereof ten days prior to the time the same are to
6 take effect; provided that the commission, upon the appli-

7 cation of any public utility, may prescribe a less time within
8 which any such change may be made.

Sect. 15. Copies of all new schedules shall be filed as here-
2 inbefore provided in every station and office of such public
3 utility where payments are made by customers or users ten
4 days prior to the time the same are to take effect, unless the
5 commission shall prescribe a less time.

Sect. 16. It shall be unlawful for any public utility to
2 charge, demand, collect or receive a greater or less com-
3 pensation except as otherwise provided in section ten of this
4 act for any service performed by it within the state or for
5 any service in connection therewith than is specified in such
6 printed schedules, including schedules of joint rates, as may
7 at the time be in force, or to demand, collect or receive any
8 rate, toll or charge not specified in such schedule. The rates,
9 tolls and charges named therein shall be the lawful rates,
10 tolls and charges until the same are changed as provided in
11 this act. The commission may prescribe such changes in
12 the form in which the schedules are issued by any public
13 utility as may be found to be expedient.

Sect. 17. The commission shall provide for a comprehen-
2 sive classification of the service for each public utility and
3 such classification may take into account the quantity used,
4 the time when used, the purpose for which used and any
5 other reasonable consideration. Each public utility is re-
6 quired to conform its schedules of rates, tolls and charges
7 to such classification.

Sect. 18. The commission shall have authority to inquire
2 into the management of the business of all public utilities
3 and shall keep itself informed as to the manner and method
4 in which the same is conducted, and shall have the right to
5 obtain from any public utility all necessary information to
6 enable the commission to perform its duties.

Sect. 19. The commission or any commissioner or any
2 person or persons employed by the commission for that pur-
3 pose shall, upon demand, have the right to inspect the books,
4 accounts, papers, records and memoranda of any public
5 utility in relation to its business and affairs and to take
6 copies thereof. Any person other than one of said commis-
7 sioners who shall make such demand shall produce his au-
8 thority to make such inspection. Such person or persons so
9 employed shall not directly or indirectly divulge any infor-
10 mation so derived to any one except to the commission or
11 under the direction of the commission. Any person violat-
12 ing the provisions of this section shall be punished by a fine
13 of not more than one thousand dollars and by imprisonment
14 for not more than one year.

Sect. 20. The commission may require, by order or sub-
2 poena to be served on any public utility in the same manner
3 that a summons is served in a civil action in the supreme
4 judicial court, the production within this state at such time
5 and place as it may designate, of any books, accounts, papers
6 or records kept by said public utility and within its control
7 in any office or place outside of the State of Maine, of veri-

8 fied copies thereof instead, if the commission shall so or-
9 der, in order that an examination thereof may be made by
10 the commission or under its direction. Any public utility
11 failing or refusing to comply with any such order or sub-
12 poena shall, for each day it shall so fail or refuse, forfeit and
13 pay into the state treasury a sum not less than fifty dollars nor
14 more than five hundred dollars to be recovered by the state
15 in an action of debt, which may be instituted by said commis-
16 sion, or by indictment.

Sect. 21. Every public utility shall furnish to the commis-
2 sion all information required by it to carry into effect the
3 provisions of this act, and shall make specific answers to all
4 questions submitted by the commission. Any public utility
5 receiving from the commission any blanks with directions to
6 fill the same shall cause the same to be properly filled out
7 so as to answer fully and correctly each question therein
8 propounded, and in case it is unable to answer any ques-
9 tion, it shall give a good and sufficient reason for such fail-
10 ure; and such answer shall be verified under oath by the
11 president, clerk, superintendent, or general manager of such
12 public utility and returned to the commission at its office
13 within the time fixed by the commission.

Sect. 22. Upon a complaint made against any public util-
2 ity, by twenty-five persons, firms, corporations or associa-
3 tions, aggrieved, that any of the rates, tolls, charges, or
4 schedules or any joint rate or rates of any public utility are
5 in any respect unreasonable or unjustly discriminatory, or

6 that any regulation, measurement, practice or act of said
7 public utility is in any respect unreasonable, insufficient or
8 unjustly discriminatory, or that any service is inadequate
9 or cannot be obtained, the commission, being satisfied that
10 the petitioners are responsible and that a hearing is expe-
11 dient, shall proceed, with or without notice, to make such
12 investigation as it may deem necessary. But no order af-
13 fecting said rates, tolls, charges, schedules, regulations,
14 measurements, practice or act complained of shall be entered
15 by the commission without a formal public hearing.

Sect. 23. The commission shall, prior to such formal hear-
2 ing, notify the public utility complained of that a complaint
3 has been made, and ten days after such notice has been given
4 the commission may proceed to set a time and place for a
5 hearing and an investigation as hereinafter provided.

Sect. 24. The commission shall give the public utility and
2 the complainant, if any, at least twenty days' notice of the
3 time and place when and where such hearing and investiga-
4 tion will be held and such matters considered and determined.
5 Both the public utility and the complainant shall be entitled
6 to be heard and have process to enforce the attendance of
7 witnesses.

Sect. 25. If upon such investigation the rates, tolls,
2 charges, schedules or joint rates, shall be found to be un-
3 just, unreasonable, insufficient or unjustly discriminatory or
4 to be preferential or otherwise in violation of the provisions
5 of this act, the commission shall have power to fix and order

6 substituted therefor such rate or rates, tolls, charges or sched-
7 ules as shall be just and reasonable. If upon investigation
8 it shall be found that any regulation, measurement, practice,
9 act or service complained of is unjust, unreasonable, insuf-
10 ficient, preferential, unjustly discriminatory or otherwise in
11 violation of any of the provisions of this act, or if it may be
12 found that any service is inadequate or that any reasonable
13 service cannot be obtained, the commission shall have power
14 to establish and substitute therefor such other regulations,
15 measurements, practice, service, or acts and to make such
16 order respecting and such changes in such regulations, meas-
17 urements, practice, service and acts as shall be just and rea-
18 sonable.

Sect. 26. The commission may, in its discretion, when
2 complaint is made of more than one rate or charge, order
3 separate hearings thereon, and may consider and determine
4 the several matters complained of separately and at such
5 times as it may prescribe.

Sect. 27. Whenever the commission believes that any
2 rate or charge is unjust or unreasonable or that any service
3 is inadequate or cannot be obtained or that an investiga-
4 tion of any matter relating to any public utility should for
5 any reason be made, it may on its own motion, summarily in-
6 vestigate the same with or without notice.

Sect. 28. If, after making such investigation, the commis-
2 sion becomes satisfied that sufficient grounds exist to war-
3 rant a formal hearing being ordered as to matters so investi-

4 gated, it shall furnish such public utility interested a state-
5 ment notifying the public utility of the matters under inves-
6 tigation. Ten days after such notice has been given the
7 commission may proceed to set a time and place for a hear-
8 ing and an investigation as hereinbefore provided.

Sect. 29. Notice of the time and place of such hearing
2 shall be given to the public utility and to such other inter-
3 ested persons as the commission shall deem necessary as
4 provided in section 24 of this act, and thereafter proceed-
5 ings shall be had and conducted in reference to the matter
6 investigated in like manner as though complaint had been
7 filed with the commission relative to the matter investigated,
8 and the same order or orders may be made in reference there-
9 to as if such investigation had been made on complaint.

Sect. 30. Any public utility may make complaint as to
2 any matter affecting its own product or service with like
3 effect as though made by any twenty-five persons, firms, cor-
4 porations or associations.

Sect. 31. Each of the commissioners for the purposes men-
2 tioned in this act shall have power to administer oaths, cer-
3 tify to official acts, issue subpoenas, compel the attendance
4 of witnesses and the production of books, accounts, papers,
5 documents and testimony. In case of disobedience on the
6 part of any person or persons to comply with the order of
7 the commission or any commissioner or any subpoena, or in
8 the refusal of any witness to testify to any matter regarding
9 which he may be lawfully interrogated before the commis-

10 sion, it shall be the duty of any judge of the supreme ju-
11 dicial court, on application of a commissioner, to compel
12 obedience by proceedings for contempt as in the case of dis-
13 obedience of the requirements of a subpoena issued from
14 such court or a refusal to testify therein.

Sect. 32. Each witness who shall appear before the com-
2 mission by its order, shall receive for his attendance the fees
3 and mileage now provided for witnesses in civil cases in the
4 supreme judicial court, which shall be audited and paid by
5 the state in the same manner as other state expenses are aud-
6 ited and paid, upon the presentation of proper vouchers
7 sworn to by such witnesses and approved by the chairman
8 of the commission. No witness subpoenaed at the instance
9 of any party other than the commission shall be entitled to
10 compensation from the state for attendance or travel unless
11 the commission shall certify that his testimony was material
12 to the matter investigated.

Sect. 33. The commission or any party may, in any inves-
2 tigation, cause the depositions of witnesses residing within
3 or without the state to be taken in the manner prescribed by
4 law for life depositions for civil actions in the supreme ju-
5 dicial court.

Sect. 34. A full and complete record shall be kept of all
2 proceedings had before the commission of any formal inves-
3 tigation and all testimony shall be taken down by a steno-
4 grapher appointed by the commission.

Sect. 35. Whenever any notice of appeal from its decision
2 is served upon the commission under the provisions of sec-
3 tion 43 of this act, the commission shall, before said action
4 is reached for trial, cause a certified transcript of all pro-
5 ceedings had and testimony taken upon such investigation
6 to be filed with the clerk of the supreme judicial court of the
7 county where the action is pending.

Sect. 36. A transcribed copy of the evidence and proceed-
2 ings or any specific part thereof, on any investigation taken
3 by the stenographer appointed by the commission, being cer-
4 tified by such stenographer to be a true and correct transcript
5 of all testimony on the investigation or of a particular wit-
6 ness, or of other specific part thereof, carefully compared
7 by him with his original notes, and to be a correct statement
8 of the evidence and proceedings had on such investigation
9 so purporting to be taken and transcribed, shall be received
10 in evidence with the same effect as if the reporter were pres-
11 ent and testified to the fact so certified. A copy of such
12 transcript shall be furnished free of cost to any party to
13 such investigation, on demand.

Sect. 37. The commission shall cause a certified copy of
2 all orders to be delivered to an officer or agent of the public
3 utility affected thereby, and all such orders shall of their own
4 force take effect and become operative twenty days after
5 service thereof, unless a different time be provided by said
6 order.

Sect. 38. All public utilities to which the order applies
2 shall make such changes in their schedules on file as may be
3 necessary to make the same conform to said order ,and no
4 change thereafter shall be made by any public utility in any
5 such rates, tolls, or charges or in any joint rate or rates,
6 without the approval of the commission. Certified copies of
7 all other orders of the commission shall be delivered to the
8 public utility affected thereby in like manner and the same
9 shall take effect within such time thereafter as the commis-
10 sion shall prescribe.

Sect. 39. The commission may at any time, upon notice
2 to the public utility and after opportunity to be heard as
3 provided in section 24, rescind, alter or amend any order
4 fixing any rate or rates, tolls, charges or schedules or any
5 other order made by the commission, and certified copies of
6 the same shall be served and take effect as herein provided
7 for original orders.

Sect. 40. All rates, tolls, schedules, charges and joint rates
2 fixed by the commission shall be in force and shall be *prima*
3 *facie* lawful, and all regulations, practices, and services pre-
4 scribed by the commission shall be in force and shall be *prima*
5 *facie* reasonable until finally found otherwise in an action
6 brought for that purpose pursuant to the provisions of sec-
7 tion 43 of this act.

Sect. 41. Any public utility and any person or corporation
2 in interest being dissatisfied with any order of the commis-
3 sion fixing any rate or rates, tolls, charges, schedules, joint

4 rate or rates, or any order fixing any regulations, practices,
5 act or service may bring a bill in equity in the supreme ju-
6 dicial court in the county where the Maine office of the pub-
7 lic utility is located, or at its option in Kennebec County,
8 against the commission as defendant to vacate, amend or set
9 aside any such order on the ground that the rate or rates,
10 tolls, charges, schedules, joint rate or rates fixed in such
11 order is unlawful, or that any such regulation, practice, act
12 or service fixed in such order is unreasonable, in which ac-
13 tion the commission shall be made party to such bill, which
14 shall be brought and served like other bills in equity. The
15 answer of the commission to the bill shall be filed within 30
16 days after service, whereupon said action shall be at issue
17 and stand ready for trial upon 30 days' notice to either
18 party. All such actions shall have precedence over any
19 cause of a different nature pending in said court, and the
20 court shall always be deemed open for the trial thereof, and
21 the same shall be tried and determined as other actions in
22 equity.

Sect. 42. Every proceeding, action or suit to set aside, va-
2 cate or amend any determination or order of the commis-
3 sion or to enjoin the enforcement thereof, or to prevent in
4 any way such order or determination from becoming effec-
5 tive, shall be commenced, and every appeal to the court or
6 right of recourse to the court shall be taken or exercised
7 within ninety days after the entry or rendition of such order
8 or determination, and the right to commence such action,

9 proceeding or suit, or to take or exercise any such appeal or
10 right of recourse to the court, shall terminate absolutely at
11 the end of such ninety days after such entry or rendition.

Sect. 43. No injunction shall issue suspending or staying
2 any order of the commission, except upon application to the
3 supreme judicial court or one of the justices thereof, notice
4 to the commission and hearing.

Sect. 44. If, upon trial of such action, evidence shall be
2 introduced by the plaintiff which is found by the court to be
3 different from that offered upon the hearing before the com-
4 mission, or additional thereto, the court, before proceeding
5 to render judgment unless the parties to such action stipu-
6 late in writing to the contrary shall transmit a copy of such
7 evidence to the commission and stay further proceedings in
8 said action for fifteen days from the date of such transmis-
9 sion.

Sect. 45. Upon receipt of such evidence the commission
2 shall consider the same and may alter, modify, amend or
3 rescind its orders relating to such rate or rates, tolls, charges,
4 schedules, joint rate or rates, regulations, practice, act or
5 service complained of in said action, and shall report its ac-
6 tion thereon to said court within ten days from the receipt
7 of such evidence.

Sect. 46. If the commission shall rescind its order com-
2 plained of, the action shall be dismissed; if it shall alter,
3 modify or amend the same, such altered, modified or amend-
4 ed order shall take the place of the original order complained

5 of and judgment shall be rendered thereon as though made
6 by the commission in the first instance. If the original or-
7 der shall not be rescinded or changed by the commission
8 judgment shall be rendered upon such original order.

Sect. 47. Either party to said action may appeal to the
2 law court, and such appeal shall be governed by the general
3 rules of equity practice and procedure.

Sect. 48. In all trials, actions, and proceedings arising un-
2 der the provisions of this act or growing out of the exercise
3 of the authority and powers granted herein by the commis-
4 sion, the burden of proof shall be upon the party adverse to
5 such commission or seeking to set aside any determination,
6 requirement, direction or order of said commission com-
7 plained of as unreasonable or unlawful as the case may be.
8 And in all original proceedings before said commission
9 where an increase in rates, tolls, charges, or schedules or
10 joint rate or rates is complained of, the burden of proof
11 shall be upon the public utility to show that such increase is
12 just and reasonable.

Sect. 49. In all action and proceedings in court arising
2 under this act all processes shall be served and the practice
3 and rules of evidence shall be the same as in civil actions,
4 except as otherwise herein provided. Every sheriff or other
5 officer empowered to execute civil processes shall execute
6 any process issued under the provisions of this act and shall
7 receive such compensation therefor as may be prescribed by
8 law for similar service.

Sect. 50. No person shall be excused from testifying or
2 from producing books, accounts and papers in any proceed-
3 ings based or growing out of the provisions of this act on
4 the ground that the testimony or evidence, documentary or
5 otherwise, required of him may tend to incriminate him or
6 subject him to a penalty or forfeiture; but no person having
7 so testified shall be prosecuted or subjected to any penalty
8 or forfeiture for or on account of any transaction, matter
9 or thing concerning which he may have testified or produced
10 any documentary evidence; provided however, that no per-
11 sons so testifying shall be exempt from prosecution or pun-
12 ishment for perjury.

Sect. 51. Upon application of any person the commission
2 shall furnish certified copies, under the seal of the commis-
3 sion, of any order made by it, which shall be evidence of the
4 facts stated therein.

Sect. 52. Section 1 of chapter 55 of the Revised Statutes
2 is hereby amended by striking out the words "special act of
3 the legislature" and inserting 'consent of said public utili-
4 ties commission' so that said section as amended shall read
5 as follows:

'Section 1. Corporations for the operation of telegraphs
7 or telephones, and corporations for the operation of both
8 telegraphs and telephones, and corporations for the purpose
9 of making, generating, selling, distributing and supplying
10 gas or electricity, or both, for lighting, heating, manufac-
11 turing or mechanical purposes, in any city or town, or two

12 or more adjoining cities or towns, within the state, or for
13 either or any of such purposes, may be organized under the
14 provisions of sections five to ten inclusive of chapter forty-
15 seven, but no corporation, so organized, shall have authority,
16 without consent of said public utilities commission, to make,
17 generate, sell, distribute or supply gas or electricity, or both,
18 for any purpose, in or to any city or town, in or to which
19 another company, person or firm are making, generating,
20 selling, distributing or supplying, or are authorized to make,
21 generate, sell, distribute or supply gas or electricity, or both.'

Sect. 53. No such consent, and no license, permit or fran-
2 chise shall be granted to any person, co-partnership or cor-
3 poration to own, operate, manage or control the plants or
4 equipment of any corporation for the purpose of making,
5 generating, selling, distributing and supplying gas or elec-
6 tricity or both, for lighting, heating, manufacturing, power
7 or mechanical purposes in any city or town where there is in
8 operation a public utility engaged in similar service, until
9 said commission has made a declaration to have a public
10 hearing of all parties interested that public convenience and
11 necessity requires such second public utility.

Sect. 54. No permit or franchise to own, operate, manage
2 or control any plant or equipment for the production, trans-
3 mission, delivery or furnishing of heat, light, water or power
4 shall be hereafter granted or transferred to a corporation
5 unless said corporation is duly organized under the laws of
6 the State of Maine.

Sect. 55. It shall be unlawful for any public utility to de-
2 mand, charge, collect or receive from any person, firm or
3 corporation less compensation for any service rendered or
4 to be rendered by said public utility in consideration of the
5 furnishing by said person, firm or corporation of any part
6 of the facilities incident thereto, provided that nothing here-
7 in shall be construed as prohibiting any public utility from
8 renting any facilities incident to the production, transmis-
9 sion, delivery or furnishing of heat, light, water or power
10 or the conveyance of telephone messages and paying a rea-
11 sonable rental therefor, or as requiring any public utility to
12 furnish any part of such appliances which are situated in or
13 upon the premises of any consumer or user, except telephone
14 station equipments upon the subscribers' premises, and unless
15 otherwise ordered by the commission, meters, and appliances
16 for measurement of any product or service. And provided
17 further that nothing herein shall affect scheduled classifica-
18 tions of telephone service wherein separate charges are made
19 for facilities and for service or scheduled classifications of
20 rural telephone service wherein a portion of the facilities
21 are regularly furnished by the user of the service.

Sect. 56. If any public utility make or give any undue or
2 unreasonable preference or advantage to any particular per-
3 son, firm or corporation or any undue or unreasonable preju-
4 dice or disadvantage in any respect whatever, such public
5 utility shall be deemed guilty of unjust discrimination which
6 is hereby prohibited and declared unlawful.

Sect. 57. This act shall not apply to state, county, municipal or federal contracts now or hereafter made, or to any existing term contracts with persons, firms or corporations, or to contracts with charitable institutions, or to rates made to employees in the case of electric, gas, telephone and telegraph and water companies, or to cases of emergency service.

Sect. 58. It shall be unlawful for any person, firm or corporation to knowingly 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 have any device whatsoever, or otherwise be rendered free or at a less rate than named in the schedules and tariffs in force as provided herein, or whereby any service or advantage is received other than is herein specified, provided this act shall not prohibit free or reduced rate transportation by common carriers as defined and provided in the Acts of Congress, entitled "An Act to regulate commerce," and acts amendatory thereof; nor shall it be construed to prohibit any public utility from granting service at reduced rates for charitable and benevolent purposes, provided the same be approved by the commission. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than one thousand dollars for each offense.

Sect. 59. If any public utility shall do or cause to be done
2 or permit to be done any matter, act or thing in this act pro-
3 hibited or declared to be unlawful, or shall omit to do any
4 act, matter or thing required to be done by it, each public
5 utility shall be liable in damages to the person, firm or corpo-
6 ration injured thereby; provided, that any recovery as in this
7 section provided, shall in no manner affect a recovery by the
8 state of the penalty prescribed for such violation.

Sect. 60. Any officer, agent or employee of any public
2 utility as defined in this act who shall fail or refuse to fill
3 out and return any blanks as required by this act, or shall
4 refuse or fail to answer any question therein propounded,
5 or shall knowingly or wilfully give a false answer to any
6 such question or shall evade the answer to any question
7 where the fact inquired of is within his knowledge or who
8 shall, upon proper demand, wilfully fail or refuse to exhibit
9 to the commission or any commissioner or any person au-
10 thorized to examine the same, any book, paper, account,
11 record or memorandum of such public utility which is in his
12 possession or under his control or who shall fail to properly
13 use and keep his system of accounting or any part thereof
14 as prescribed by the commission, or who shall refuse to do
15 any act or thing in connection with such system of account-
16 ing when so directed by the commission or its authorized
17 representative, shall be deemed guilty of a misdemeanor and
18 upon conviction thereof shall be punished by a fine not ex-
19 ceeding one thousand dollars for each offense. And a pen-

20 alty of not more than one thousand dollars shall be recov-
21 ered from the public utility for each such offense when such
22 officer, agent, or employee acted in obedience to the direction,
23 instruction or request of such public utility or any general
24 officer thereof.

Sect. 61. If any public utility shall wilfully violate any
2 provision of this act, or shall do any act therein prohibited
3 or shall fail or refuse to perform any duty enjoined upon it
4 for which a penalty has not been provided, or shall fail or
5 refuse to obey any lawful requirement or order made by the
6 commission or any judgment or decree made by any court
7 upon its application, for every such violation, failure or re-
8 fusal such public utility shall forfeit and pay into the treas-
9 ury a sum not more than one thousand dollars for each of-
10 fense. In construing and enforcing the provisions of this
11 section the act, omission or failure of an officer, agent or
12 other person acting for or employed by any public utility
13 acting within the scope of his employment shall in every case
14 be deemed to be the act, omission or failure of such public
15 utility.

Sect. 62. Every day during which any public utility or any
2 officer, agent or employe thereof shall fail to observe and
3 comply with any order or direction of the commission or to
4 perform any duty enjoined by this act shall constitute a sep-
5 arate and distinct violation of such order or direction as the
6 case may be.

Sect. 63. The commission shall have power, when deemed
2 by it necessary to prevent injury to the business or interests
3 of the people or any public utility of this state in case of any
4 emergency to be judged of by the commission, to temporarily
5 alter, amend or with the consent of the public utility con-
6 cerned, suspend any existing rates, schedules and order re-
7 lating to or affecting any public utility in this state. Such
8 rates so made by the commission shall apply to one or more
9 of the public utilities in this state or to any portion thereof
10 as may be directed by the commission, and shall take effect
11 at such time and remain in force for such length of time as
12 may be prescribed by the commission.

Sect. 64. Whenever, after hearing and investigation as
2 provided in this act, the commission shall find that any rate,
3 tolls, charge, regulation or practice for, in, or affecting or
4 relating to any service to be performed by any public utility
5 not hereinbefore specified and designated, is unreasonable
6 or unjustly discriminatory, it shall have the power to regu-
7 late the same as provided in sections 22 to 40 inclusive.

Sect. 65. Every public utility shall, whenever an accident
2 attended with loss of human life occurs within this state
3 upon its premises or directly or indirectly arising from or
4 connected with its maintenance of operation, give immediate
5 notice thereof to the commission. In the event of any such
6 accident the commission, if it deems that the public interest
7 requires it, shall cause an investigation to be made forth-
8 with, which investigation shall be held in the locality of the

9 accident, unless for greater convenience of those concerned
10 it shall order such investigation to be held at some other
11 place; and such investigation may be adjourned from place
12 to place as may be found necessary and convenient. The
13 commission shall seasonably notify the public utility of the
14 time and place of the investigation and such public utility
15 may then be heard. Any investigation under this section
16 may be held by or before any one member of the commission,
17 and when approved and confirmed by the commission, and
18 so shown on its records, shall be deemed to be the decision
19 of the commission.

Sect. 66. The commission shall inquire into any neglect or
2 violation of the laws of the state by any public utility doing
3 business therein, or by the officers, agents or employes there-
4 of or by any person operating the plant of any public utility,
5 and shall have the power and it shall be its duty to enforce
6 the provisions of this act as well as other laws relating to
7 public utilities, and to report all violations thereof to the at-
8 torney general. Upon the request of the commission it shall
9 be the duty of the attorney general or the county attorney
10 of the proper county to aid in any investigation, hearing or
11 trial had under the provisions of this act, and to institute
12 and prosecute all necessary actions or proceedings for the
13 enforcement of this act and of all other laws of this state re-
14 lating to public utilities and the punishment of all violations
15 thereof. Any forfeiture or penalty herein provided shall be
16 recovered and suit therein be brought in the name of the

17 State of Maine in the supreme judicial court in the county
18 where the main office of the public utility is located or in
19 Kennebec county. Complaint for the collection of any such
20 forfeiture may be made by the commission or any member
21 thereof, and when so made the action so commenced shall be
22 prosecuted by the attorney general. The commission shall
23 have authority to employ counsel in any proceeding, inves-
24 tigation or trial.

Sect. 67. A substantial compliance with the requirements
2 of this act shall be sufficient to give effect to all rules, orders,
3 acts and regulations of the commission and they shall not be
4 declared inoperative, illegal or void for any omission of a
5 technical or immaterial nature in respect thereto. The com-
6 mission is authorized to remit any fine which in its judgment
7 justice may require.

Sect. 68. This act shall not have the effect to release or
2 waive any right of action by the state or by any person for
3 any right, penalty or forfeiture which may have arisen or
4 which may hereafter arise, under any law of this state.

Sect. 69. All costs and expenses of investigation allowed
2 by the commission shall be certified by the commission to
3 the Board of State Assessors, and every public utility shall
4 pay to the treasurer of state, a tax, in addition to all other
5 taxes provided by law, which shall be such sum as shall be
6 its proportional part of the amount of such costs and ex-
7 penses so certified, to be determined by the Board of State
8 Assessors on or before the first day of April of each year,

9 according to the gross earnings of such public utility, as re-
10 turned to the commission for the year ending June 30th pre-
11 ceding the levying of such tax.

In certifying costs and expenses as aforesaid, the commis-
13 sion shall classify public utilities as (1) steam railroads, (2)
14 street railroads, (3) water companies, (4) gas and electric
15 companies, (5) telephone and telegraph companies, (6) ex-
16 press companies, and it may make such other classification
17 as it deems just; the commission shall then designate the
18 amount of costs and expenses charged against each class,
19 and the Board of State Assessors in fixing the tax as above
20 provided shall apportion it among the several classes accord-
21 ing to the costs and expenses so charged against each class.
22 The Board of State Assesors shall report said tax to the
23 treasurer of state, who shall forthwith give notice thereof to
24 every public utility and the same shall be payable on the
25 first day of July next after the levy is made.

Sect. 70. Unless the commission shall otherwise order, it
2 shall be unlawful for any public utility within the state to
3 demand, collect or receive a greater compensation for any
4 service than the charge fixed on its lowest schedule of rates
5 for like services rendered under like circumstances and con-
6 ditions on the first day of September, A. D. 1911. Every
7 public utility in this state shall within 30 days after this act
8 shall take effect, file in the office of the commission, copies
9 of all schedules of rates and charges including joint rates in
10 force on the first day of September, A. D. 1911, and all rates

11 in force at any time subsequent to said date. Any public
12 utility desiring to advance or discontinue any such rate or
13 rates may make application to the commission in writing
14 stating the advance in or the discontinuation of the rate or
15 rates desired, giving the reasons for such advance or discon-
16 tinuation. Upon receiving such application the commission
17 shall fix a time and place for hearing and give such notice
18 to interested parties as it shall deem proper and reasonable.
19 If, after such hearing and investigation, the commission shall
20 find that the charge or discontinuation applied for is reason-
21 able, fair and just, it shall grant the application in whole
22 or in part. Any public utility being dissatisfied with any
23 order of the commission made under the provisions of this
24 section may commence an action against it in the supreme
25 judicial court in the manner provided in sections 41 to 51
26 inclusive in this act, which action shall be tried and deter-
27 mined in the same manner as is provided in said sections.

Sect. 71. Any public utility now organized and existing,
2 and doing business in the State of Maine or hereafter incor-
3 porated under and by virtue of the laws of the State of
4 Maine, may issue stocks, bonds, notes or other evidences of
5 indebtedness payable at periods of more than twelve (12)
6 months after the date thereof, for the acquisition of prop-
7 erty or construction, completion, extension or improvement
8 of its facilities, or for the improvement or maintenance of its
9 service, or for the discharge or lawful refunding of its obli-
10 gations, provided, and not otherwise, that upon written ap-

11 plication, setting forth such information as the commission
12 may require, there shall have been secured from the com-
13 mission an order authorizing such issue and the amount
14 thereof, and stating that in the opinion of the commission
15 the sum of the capital to be secured by the issuance of said
16 stocks, bonds, notes or other evidence of indebtedness is re-
17 quired in good faith for said purpose of the corporation, but
18 this provision shall not apply to any stocks or bonds or other
19 evidence of indebtedness heretofore lawfully authorized or
20 issued. For the purpose of enabling the commission to de-
21 termine whether it should issue such an order, the commis-
22 sion shall make such inquiry or investigation, hold such hear-
23 ings and examine such witnesses, books, papers, documents
24 or contracts as it may deem of importance in enabling it to
25 reach a determination. No order of the commission author-
26 izing the issue of any stocks, bonds, notes or other evidence
27 of indebtedness shall limit or restrict the power of the com-
28 mission in determining and fixing any rate, fare, toll, charge,
29 classification schedule or joint rate as provided in this act.

Provided, however, that no corporation subject to the pro-
31 visions of this act shall be required to apply to the commis-
32 sion for authority to issue stocks, bonds, notes or other evi-
33 dence of indebtedness, except for the acquisition of prop-
34 erty, construction, completion, extension or improvement of
35 its facilities, or the improvement or maintenance of its ser-
36 vice within this state, or the discharge or refunding of its

37 obligations or reimbursement of moneys actually expended
38 for such purposes.

Sect. 72. No public utility shall issue any stocks, certifi-
2 cates of stock, bonds or other evidences of indebtedness, un-
3 less payable within one year from date thereof for money,
4 property or services in payment for the same, either directly
5 or indirectly, until there shall have been recorded upon the
6 books of such public utility the certificate of the commission
7 herein provided for.

Sect. 73. No public utility shall declare any stock, bond
2 or scrip dividend or divide the proceeds of the sale of any
3 stock, bond or scrip, among stockholders without consent of
4 the commission.

Sect. 74. In case of the consolidation, under any law of
2 Maine, of any two or more public utilities, the aggregate
3 amount of the capital stock, and the aggregate amount of
4 the debt of the consolidated companies, shall not, by reason
5 of such consolidation be increased, but this provision shall
6 not conflict with any rights granted to public utilities under
7 section 70.

Sect. 75. Any public utility as hereby defined, or any
2 agent, director or officer thereof who shall directly or indi-
3 rectly, issue of cause to be issued any stock, certificates of
4 stock, bonds or other evidences of indebtedness contrary to
5 the provisions of this act, or who shall apply the proceeds
6 from the sale thereof to any other purpose than that speci-
7 fied in the certificate of the commission, as herein provided,

8 shall be guilty of a felony and upon conviction thereof shall
9 be imprisoned in the states prison for not less than one year
10 or more than ten years. All stocks, bonds or other evidences
11 of indebtedness issued contrary to the provisions of this act
12 shall be void.

Sect. 76. Each and every director, president, secretary,
2 managing officer or officers, or other officials of any public
3 utility, who shall make any false statement to secure the is-
4 sue of any stock, bond or other evidence of indebtedness, or
5 who shall, by false statement knowingly make, or procure of
6 the commission the making of the certificate herein provided,
7 or issue with knowledge of such fraud, negotiate, or cause to
8 be negotiated any such stock, certificate of stock, bond or
9 other issue in violation of this act, shall be guilty of a fel-
10 ony, and upon conviction thereof, shall be fined not less than
11 five hundred dollars, and be imprisoned in the state peniten-
12 tiary for not less than one year or more than ten years.

Sect. 77. No public utility shall apply to the Legislature
2 to grant it any right or privilege which the public utility com-
3 mission has power to grant to said utility until said utility
4 shall first have exhausted its rights before said commission,
5 and in making such application to the Legislature said utility
6 shall make a statement in writing which shall accompany the
7 proposed legislation, that it has applied to said commission
8 for the rights or privilege asked for and that said commission
9 has denied its request.

Sect. 78. The commission shall have the right to employ
2 such expert assistance as is necessary in making investiga-
3 tions or in otherwise carrying out the provisions of this
4 act and a sum sufficient to carry out said provisions is hereby
5 appropriated out of any money in the state treasury, not
6 otherwise appropriated.

Sect 79. All acts and parts of acts conflicting with the
2 provisions of this act are repealed insofar as they are in-
3 consistent herewith.

Sect. 80. This act shall take effect the first day of July,
2 1911, or as soon thereafter as the constitution allows, so
3 far as to authorize the appointment of the members of the
4 commission, the clerk and assistant clerk and to authorize
5 the commissioners to qualify, organize, formulate rules, pro-
6 cure supplies, clerical and other assistants, and data neces-
7 sary for the commission to immediately enter upon the per-
8 formance of its duties. All other provisions of this act shall
9 take effect on the first day of September, 1911. The ap-
10 pointment of the members of said commission before said
11 first day of September shall not be construed as an abolish-
12 ment of the present Railroad Commission and the duties of
13 said commission shall not be in any manner abridged until
14 this act is in full force.

House of Representatives, Mar. 23, 1911.

Introduced January 27 by Mr. PATTANGALL, of Water-ville, who moved its reference to the Committee on Legal Af-fairs. Reported March 23 from that committee, in new draft, with the following reports:

The Committee on Legal Affairs, to which was referred the bill entitled "An Act to create the Public Utilities Commission of Maine and to define its duties" have had the same under consideration and ask leave to report that the same be referred to the next Legislature with new draft accompanying.

Per order,

FARRINGTON,
PATTANGALL,
MULLEN,
DODGE,
DUNN,
PETERS, . .

The Committee on Legal Affairs, to which was referred the bill entitled "An Act to create the Public Utilities Commission of Maine and to define its duties" have had the same under consideration and ask leave to report that the same ought to pass in new draft.

Per order,

WILSON,
SCATES,
PELLETIER,
WHEELER.

The sub committee of the Judiciary Committee, after consid-ering the bill to establish a Public Utilities Commission, in ses-sion with a sub committee of the Legal Affairs Committee, here-by recommend its passage.

JOSEPH WILLIAMSON,
GEORGE B. GOODWIN,
HERBERT W. TRAFTON,
EDWARD F. GOWELL.