

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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SENATE

NO. 18

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*In Senate, Jan. 13, 1913.*

*Presented by Senator Hersey of Aroostook and on motion by same senator laid on the table for printing, pending reference to a committee.*

*W. E. LAWRY, Secretary.*

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STATE OF MAINE

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AN ACT to create and establish a Public Utilities Commission and prescribe its powers and duties and to provide for the regulation and control of Public Utilities.

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

Section 1. This act shall be known as the Public Utilities Act, and shall apply to the public utilities herein described and to the commission hereby created, and to the public utility corporations and persons herein mentioned and referred to.

Sect. 2. The term "commission," when used in this act, means the public utilities commission hereby created.

The term "commissioner," when used in this act, means one of the members of such commission.

The term "corporation," when used in this act, includes a

6 corporation, company, association, and joint stock company  
7 or association.

The term "person," when used in this act, includes an in-  
9 dividual, corporation, and a firm or copartnership.

The term "public utility," when used in this act, shall mean  
11 and embrace, and apply to every corporation, company, per-  
12 son, association of persons, their lessees, trustees or receiv-  
13 ers appointed by any court whatsoever, that now or here-  
14 after may own, lease, operate, manage or control any rail-  
15 road, or street railway within this state, or that now or  
16 hereafter may operate or do business as a common carrier  
17 within this state; and to every corporation, company, per-  
18 son, association of persons, their lessees, trustees or receiv-  
19 ers, appointed by any court whatsoever, that now or here-  
20 after may own, lease, operate, manage or control any plant  
21 or equipment, or any part of any plant or equipment within  
22 this state for the conveyance of telephone or telegraph mes-  
23 sages, or for the production, transmission, delivery, or fur-  
24 nishing of gas, electricity, water, light, heat or power, either  
25 directly or indirectly to or for the public; *Provided*, that  
26 this act shall not be construed to apply to any public water  
27 works and water service owned and furnished by any city  
28 or town.

The term "common carrier," when used in this act shall  
30 mean and apply to and embrace all railroad corporations,  
31 street railway corporations, express companies, freight com-  
32 panies, freight line companies, dining car companies, steam-

33 boat, power-boat and ferry companies and all persons and  
34 associations of persons whether incorporated or not, and  
35 their lessees, trustees and receivers, appointed by any court  
36 whatsoever, operating any agency for public use in the con-  
37 veyance of persons or property within this state by land or  
38 by water, or both.

The term "railroad," when used in this act includes every  
40 railroad other than a street railway, by whatsoever power  
41 operated for public use in the conveyance of persons or prop-  
42 erty for compensation, with all bridges, ferries, tunnels,  
43 switches, spurs, tracks, stations, wharves and terminal fa-  
44 cilities of every kind, used, operated, controlled, leased, or  
45 owned by or in connection with any such railroad.

The term "street railway," when used in this act, includes  
47 every railway by whatsoever power operated or any exten-  
48 sion or extensions, branch or branches thereof, for public  
49 use in the conveyance of persons or property for compen-  
50 sation, being mainly upon, along, above or below any street,  
51 avenue, road, highway, bridge or public place in any city  
52 or town, and including all switches, spurs, tracks, rights of  
53 trackage, subways, tunnels, stations, terminals and terminal  
54 facilities of every kind, used, operated, controlled or owned,  
55 by or in connection with, any such street railway.

The terms "plant or equipment," when used in this act, shall  
57 mean and apply to and embrace all the real estate, easements,  
58 buildings, machinery, apparatus, devices, rolling stock, and  
59 tangible property of whatsoever kind and nature, and

60 wherever located, used, controlled, operated, leased or owned  
61 by a public utility in the conduct of the business thereof.

The term "service" is used in this act in its broadest and  
63 most inclusive sense.

Sect. 3. There shall be a Public Utilities Commission for the  
2 State which commission shall be vested with and possessed  
3 of the powers and duties specified in this act, and also with  
4 all the powers necessary to enable said commission to carry  
5 out fully and effectually all the purposes of this act. Said  
6 commission shall be constituted of three members who shall  
7 be duly qualified electors of this state and who shall be sev-  
8 erally sworn to the faithful performance of their duties and  
9 who shall hold office for the terms of their appointment or  
10 until their successors respectively shall be appointed and  
11 qualified to act. Within ten days after this act becomes law,  
12 the governor, by and with the advice and consent of the  
13 Council, shall appoint three such persons to be members of  
14 the Public Utilities Commission, one to hold office until the  
15 first day of July, 1919, one to hold office until the first day  
16 of July, 1917, and one to hold office until the first day of July,  
17 1915. In the month of July, A. D. 1915, and in the month  
18 of July in each second year thereafter, the Governor, by and  
19 with the advice and consent of the Council, shall appoint one  
20 member of said commission to hold office until the first day  
21 of July in the sixth year after his appointment, to succeed  
22 the member whose term will next expire. The Governor  
23 shall designate one of the commissioners appointed by him

24 within ten days after this act becomes law, as chairman of  
25 said commission and there after the commissioners shall  
26 elect one of their members as chairman upon the appoint-  
27 ment of any commissioner for a new term, or whenever a  
28 vacancy shall occur in said office.

Sect. 4. The chairman of the Public Utilities Commission  
2 shall receive, in full compensation for his services, an an-  
3 nual salary of four thousand dollars, and each of the other  
4 members of the commission shall receive in full compen-  
5 sation for his services, an annual salary of three thousand  
6 five hundred dollars, and the sum of eleven thousand dollars  
7 is hereby annually appropriated for such purpose. Said  
8 commission shall be allowed for the payment of such cleri-  
9 cal and other assistance as may be from time to time re-  
10 quired, and for office expenses and other actual expenses in-  
11 curred in the performance of its duties and in carrying out  
12 the provisions of this act, the sum of eight thousand dollars,  
13 annually, or so much thereof as may be necessary, which sum  
14 is hereby annually appropriated for said purposes. The  
15 State Auditor is hereby directed to draw his orders upon  
16 the treasurer from time to time for the payment of the sal-  
17 aries of the members of said commission, and for the pay-  
18 ment of such clerical assistance and of such office expenses  
19 upon vouchers approved by the chairman of said commis-  
20 sion.

No person shall hold the office of commissioner or of secre-  
22 tary of the commission who is an officer, attorney, agent or

23 employee of, or who holds any official relation with, any  
24 public utility subject to the provisions of this act, or who  
25 owns stock or bonds therein or who has any pecuniary in-  
26 terest therein, and no member of said commission or the  
27 secretary thereof, shall hold any other State office; and any  
28 violation of the provisions of this section by any such of-  
29 ficer shall be sufficient ground for the removal of such offi-  
30 cer as hereinafter provided.

Sect. 5. Any wilful violation of the provisions of this act,  
2 or any misconduct in office or neglect of duty by any com-  
3 missioner shall constitute sufficient cause for his removal,  
4 and said commissioners or any of them may be removed by  
5 the Governor, for cause shown, with the advice and consent  
6 of the Council.

Sect. 6. Any vacancy which may occur in said commis-  
2 sion from any cause whatsoever, shall be filled by the Gov-  
3 ernor, by and with the advice and consent of the Council,  
4 for the remainder of the term.

Sect. 7. An office or offices shall be furnished in the State  
2 House at which its meetings shall be held and business trans-  
3 acted, and where all its records shall be kept. The com-  
4 mission shall hold a meeting at least once a month, and the  
5 office of the commission shall be open for business each day  
6 of the year except Sundays and legal holidays and during  
7 such hours as the commission may deem necessary for the  
8 proper transaction of its business. The commission shall  
9 have a seal, which shall have engraved thereon the words

10 "Public Utilities Commission, State of Maine."

Sect. 8. A majority of the commissioners shall constitute  
2 a quorum for the transaction of any business, for the per-  
3 formance of any duty, for the exercise of any power of the  
4 commission, and may undertake and hold investigations,  
5 inquiries and hearings at any time and place within the State.  
6 Any such investigation, inquiry or hearing may be under-  
7 taken or held by or before any one of said commissioners,  
8 upon conditions, however, that such commissioner shall have  
9 in each case first been authorized by the commission to un-  
10 dertake or hold such investigation, inquiry, or hearing, and  
11 every investigation, inquiry or hearing so held by any com-  
12 missioner shall be, and be deemed to be, the investigation,  
13 inquiry or hearing of the commission: *Provided*, that every  
14 decision of a commissioner upon any such investigation,  
15 inquiry or hearing undertaken or held by him shall not be-  
16 come and be effective until approved and confirmed by the  
17 commission itself and ordered by the commission to be filed  
18 in its office, and upon such confirmation and order by the  
19 commission, such decision shall be, and deemed to be, the  
20 decision and order of the commission.

Sect. 9. All hearings and orders of the commission, and  
2 its record thereof, shall be public, and the commission shall  
3 make an annual report to the Governor on or before the  
4 fifteenth day of January in each year, which shall contain  
5 copies of all orders passed and issued by it, and any informa-  
6 tion in the possession of the commission which it shall deem



7 of value to the people of the State. All reports, records,  
8 files, books, and accounts, in the possession of the commis-  
9 sion shall be open to inspection to the public at all reason-  
10 able times. The commission shall charge and collect rea-  
11 sonable fees for authenticated or certified copies of official  
12 documents, orders, papers and records. No fee shall be  
13 charged for copies of official documents, orders, papers and  
14 records. No fee shall be charged for copies of official docu-  
15 ments, orders, papers and records, furnished to public offi-  
16 cers for use in their official capacity, or for the annual re-  
17 ports of the commission in the ordinary course of distribu-  
18 tion. All fees charged and collected by the commission  
19 shall belong to the State and shall be paid into the State treas-  
20 ury monthly by the secretary of the commission, accompanied  
21 by a detailed statement thereof, and become part of the gen-  
22 eral funds of the State.

Sect. 10. The Attorney-General shall, whenever requested  
2 by the commission, appear and represent the commission  
3 in any hearing, investigation, action or proceeding under this  
4 act, or in reference to any act or proceeding of the com-  
5 mission, and intervene in any action or proceeding in which  
6 any question arising under this act is involved.

Sect. 11. The commission shall appoint a secretary to hold  
2 office during its pleasure, who shall be sworn to the faithful  
3 performance of his duties. It shall be the duty of the sec-  
4 retary to keep a true record of all the proceedings of the  
5 commission, and he shall be responsible to the commission

6 for the safe custody and preservation of all the documents  
7 at its office. The secretary shall have general charge of the  
8 office of the commission, superintend its clerical business and  
9 perform such other duties as the commission may prescribe.  
10 He shall have power to administer oaths at any hearing or  
11 investigation conducted by the commission. He shall have  
12 the custody and safe keeping of the seal of the commission  
13 and shall affix the same to all orders and documents as re-  
14 quired by the commission. The secretary shall receive an  
15 annual salary of three thousand dollars, which shall be paid  
16 out of the fund appropriated for the use of the commission  
17 by Section four.

Sect. 12. The commission may employ such clerks, stenog-  
2 raphers, accountants and agents as it may require to carry  
3 out the purposes of this act, and may determine their com-  
4 pensation which shall be paid out of the fund appropriated  
5 for the use of the commission by Section four.

Sect. 13. For the purpose of making any investigation in  
2 relation to any public utility as hereinafter provided, the  
3 commission shall have the power to appoint one or more of  
4 the agents of such commission to make such investigations  
5 and report thereon to the commission.

Sect. 14. The Commissioners, the Attorney-General, and  
2 the agents of the commission, as provided in Section thir-  
3 teen, while engaged in the performance of their duties, may  
4 at all reasonable times, enter any premises, buildings, cars,  
5 plant or equipment, or other places belonging to, or con-

6 trolled by, any public utility, and inspect the same or any  
7 part thereof, and any person obstructing, hindering, or in  
8 any way causing to be obstructed or hindered, any commis-  
9 sioner or the Attorney-General or any agent of the commis-  
10 sion in the performance of his duties, or who shall refuse to  
11 permit any Commissioner, the Attorney-General, or any  
12 agent of the commission entrance into any premises, build-  
13 ings, cars, plant or equipment, or other places belonging  
14 to or controlled by any public utility, in the performance of  
15 his duties as such, shall be deemed guilty of a misdemeanor  
16 and fined not more than five hundred dollars nor less than  
17 two hundred dollars.

Sect. 15. The commission and each of the commissioners  
2 shall have power to administer oaths, summon and examine  
3 witnesses and order the production and examination of  
4 books, accounts, papers, records and documents in any pro-  
5 ceeding within the jurisdiction of the commission. All sub-  
6 poenas, and orders for the production of books, accounts,  
7 papers, records and documents shall be signed and issued  
8 by a commissioner and served as subpoenas in civil cases now  
9 served, and witnesses so subpoenaed, shall be entitled to the  
10 same fees for attendance and travel as now provided for  
11 witnesses in civil cases in the Supreme Court. If the per-  
12 son subpoenaed to attend before the commission or before  
13 a commissioner fails to obey the command of such sub-  
14 poena without reasonable cause, or if a person in attendance  
15 before the commission or a commissioner shall, without rea-

16 sonable cause, refuse to be sworn, or to be examined, or to  
17 answer a legal and pertinent question, or if any person shall  
18 refuse to produce the books, accounts, papers, records and  
19 documents material to the issue, set forth in an order duly  
20 served on him, the commission or commissioner may apply  
21 to any justice of the Supreme Court, upon proof by affidavit  
22 of the fact, for a rule or order returnable in not less than  
23 two nor more than five days, directing such person to show  
24 cause before the justice who made the order or any other  
25 justice aforesaid, why he should not be adjudged in con-  
26 tempt. Upon the return of such order the justice before  
27 whom the matter is brought on for a hearing shall examine  
28 under oath such person and such person shall be given an  
29 opportunity to be heard and if the justice shall determine  
30 that such person has refused without reasonable cause or  
31 legal excuse to be examined or to answer a legal and perti-  
32 nent question, or to produce books, accounts, papers, records  
33 and documents, material to the issue, which he was ordered  
34 to bring or produce he may forthwith commit the offender  
35 to jail, there to remain until he submits to do the act which  
36 he was so required to do, or is discharged according to law.

Sect. 16. No person shall be excused from testifying or  
2 from producing any books, accounts, papers, records or doc-  
3 uments in any investigation or inquiry by, or upon any  
4 hearing before the commission or any commissioner when  
5 ordered to do so by said commission or commissioner upon  
6 the ground that the testimony or evidence, accounts, papers,

7 records, books or documents, required of him may tend to  
8 incriminate him or subject him to penalty or forfeiture; but  
9 no person shall be prosecuted, punished or subjected to any  
10 penalty or forfeiture for or on account of any act, transac-  
11 tion, matter or thing concerning which he shall, under oath,  
12 by order of the commission or a commissioner, have testi-  
13 fied or produced such documentary evidence: *Provided*, that  
14 no person so testifying shall be exempt from prosecution or  
15 punishment for any perjury committed by him in his testi-  
16 mony. Nothing herein contained is intended to give or shall  
17 be construed as in any manner giving any corporation im-  
18 munity of any kind from the law.

Sect. 17. All hearings, investigations and inquiries before  
2 the commission shall be governed by rules to be adopted and  
3 prescribed by the commission, and in such hearings and in-  
4 vestigations and inquiries, the commission shall not be bound  
5 by the technical rules of evidence.

Sect. 18. Upon a written complaint made against any pub-  
2 lic utility by any city council or municipal officers of a town,  
3 or by any corporation, or by any twenty-five qualified elec-  
4 tors that any of the rates, tolls, charges or any joint rate  
5 or rates of any public utility are in any respect unreasonable  
6 or unjustly discriminatory or that any regulation, measure-  
7 ment, practice or act whatsoever of any public utility, af-  
8 fecting or relating to the conveyance of persons or property  
9 or any service in connection therewith, or affecting or relat-  
10 ing to the production, transmission, delivery, or furnishing

11 of heat, light, water, or power, or any service in connection  
12 therewith, or the conveyance of any telephone or telegraph  
13 message, or any service in connection therewith, is in any  
14 respect unreasonable, insufficient or unjustly discriminatory,  
15 or that any service is inadequate or cannot be obtained or is  
16 unsafe, or the public safety is endangered thereby, the com-  
17 mission shall proceed, with or without notice, to make such  
18 investigation as it may deem necessary or convenient. But  
19 no order affecting said rates, tolls, charges, regulations,  
20 measurements, practice, act or service complained of shall  
21 be entered by the commission without a formal public hear-  
22 ing. When any complaint shall be made by twenty-five or  
23 more qualified electors, such complaint shall designate one  
24 of the complainants ~~upon whom~~ shall be served all notices  
25 orders and citations required by this act to be served upon  
26 complainants.

Sect. 19. 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  
4 given, the commission may proceed to set a time and place  
5 for a hearing and an investigation as hereinafter provided.

Sect. 20. The commission shall give the public utility and  
2 the complainant, if any, ten days' notice of the time and  
3 place where and when such hearing and investigation will  
4 be held and such matters considered and determined. Both  
5 the public utility and the complainant shall be entitled to be  
6 heard and appear by counsel, and shall have process to en-

7 force the attendance of witnesses.

Sect. 21. If upon such hearing and investigation had under  
2 the provisions of this act, the commission shall find any  
3 existing rates, tolls, charges, or joint rate or rates of any  
4 public utility, to be unjust, unreasonable, insufficient or un-  
5 justly discriminatory or to be preferential or otherwise in  
6 violation of any of the provisions of this act, the commis-  
7 sion shall have power to fix and order substituted therefor,  
8 such rates, tolls, charges, or joint rates as shall be just and  
9 reasonable.

Sect. 22. If upon such a hearing and investigation had  
2 under the provisions of this act, the commission shall find  
3 that any regulation, measurement, practice, act or service  
4 of any public utility is unjust, unreasonable, insufficient,  
5 preferential, unjustly discriminatory, or otherwise in vio-  
6 lation of any of the provisions of this act, or that any ser-  
7 vice of any such public utility is inadequate or that any  
8 service which can be reasonably demanded cannot be ob-  
9 tained, the commission shall have power to substitute there-  
10 for such other regulations, measurements, practices, ser-  
11 vice, or acts, and to make such order respecting, and such  
12 changes in regulations, measurements, practices, service or  
13 acts, as shall be just and reasonable.

Sect. 23. If upon such a hearing and investigation, the  
2 commission shall find that the regulations, practices, acts,  
3 plant or equipment, appliances, or service of any public  
4 utility or any condition suffered, permitted or maintained by

5 any public utility, is unsafe, or improper, or that the public  
6 safety is endangered thereby, the commission shall by order  
7 determine the proper regulations, practices, acts, plant or  
8 equipment, appliances or service thereafter to be in force and  
9 to be observed, maintained and used by such public utility,  
10 and may by order, require any dangerous or unsafe condi-  
11 tion to be removed or remedied.

Sect. 24. If upon such a hearing and investigation it shall  
2 be found that any rate, toll, charge, or joint rate or rates is  
3 unjust, unreasonable, insufficient or unjustly discriminatory  
4 or preferential or otherwise in violation of any of the pro-  
5 visions of this act or that any regulation, measurement, prac-  
6 tice, act or service complained of is unjust, unreasonable,  
7 insufficient, preferential or otherwise in violation of any of  
8 the provisions of this act, or if it be found that any service  
9 is inadequate or that any reasonable service cannot be ob-  
10 tained, the public utility found to be at fault shall pay the  
11 expenses incurred by the commission upon such investiga-  
12 tion either in whole or in part as the commission in its dis-  
13 cretion may determine.

Sect. 25. 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 time as it may prescribe. No complaint shall at any time  
6 be dismissed because of the absence of direct damage to the  
7 complainant. ,



Sect. 26. Whenever the commission shall believe that any  
2 of the rates, tolls, charges, or any joint rate or rates, charged,  
3 demanded, exacted or collected by any public utility are in  
4 any respect unreasonable, or unjustly discriminatory, or  
5 otherwise in violation of this act; or that any regulation,  
6 measurement, practice or act whatsoever of such public  
7 utility, affecting or relating to the conveyance of persons or  
8 property, or any service in connection therewith, or affect-  
9 ing or relating to the production, transmission, delivery or  
10 furnishing of heat, light, water or power, or any service in  
11 connection therewith, or the conveyance of telephone or  
12 telegraph messages, or any service in connection therewith,  
13 is in any respect unreasonable, insufficient, or unjustly dis-  
14 criminatory; or that any service of such public utility is in-  
15 adequate or cannot be obtained or is unsafe, or the public  
16 safety is endangered thereby, or that an investigation of any  
17 matter relating to a public utility should, for any reason  
18 be made, it may on its own motion, summarily investigate  
19 the same with or without notice.

Sect. 27. If, after making such summary investigation,  
2 the commission becomes satisfied that sufficient grounds  
3 exist to warrant a formal hearing being ordered as to the  
4 matter so investigated, it shall furnish such public utility  
5 interested, a statement notifying the public utility of the  
6 matters under investigation. Ten days after such notice  
7 has been given the commission may proceed to set a time  
8 and place for a hearing and investigation.,

Sect. 28. Notice of the time and place for such hearing  
2 and investigation shall be given to the public utility and to  
3 such other interested persons as the commission shall deem  
4 necessary, as provided in section twenty hereof, and there-  
5 after the proceedings shall be had and conducted in refer-  
6 ence to the matter investigated in like manner as though  
7 complaint had been filed with the commission relative to the  
8 matter investigated, and the same order or orders may be  
9 made in reference thereto as if such hearing and investiga-  
10 tion had been made on complaint.

Sect. 29. The commission shall cause a certified copy of  
2 all its orders to be served upon an officer or agent to the  
3 public utility affected thereby, and upon the complainant if  
4 any there be, and all such orders shall of their own force  
5 take effect and become operative ten days after service there-  
6 of unless a different time be fixed by the order.

Sect. 30. Every public utility and all officers and agents  
2 thereof shall obey, observe and comply with every order of  
3 the commission made under the authority of this act as long  
4 as the same shall be and remain in force. Every public  
5 utility which shall violate any of the provisions of this act  
6 or which fails, omits or neglects to obey, observe, or comply  
7 with, any order of the commission, shall be subject to a pen-  
8 alty of not less than two hundred dollars, nor more than  
9 five hundred dollars for each and every offence. Every  
10 violation of such order shall be a separate and distinct of-  
11 fence and in case of a continuing violation, every day's con-

12 tinuance thereof shall be and be deemed to be, a separate  
13 and distinct offence. Every officer, agent, or employee of  
14 a public utility who shall violate any of the provisions of  
15 this act, or who procures, aids, or abets any such violation  
16 by any such public utility, or who shall fail to obey, observe  
17 or comply with any order of the commission, or any pro-  
18 vision of an order of the commission, or who procures, aids  
19 or abets any such public utility in its failure to obey, observe,  
20 or comply with, any such order or provision, shall be guilty  
21 of a misdemeanor and shall be fined not less than one hun-  
22 dred dollars nor more than five hundred dollars. In con-  
23 struing and enforcing the provisions of this section, the act,  
24 omission or failure of any officer, agent or other person act-  
25 ing for or employed by any public utility, acting within the  
26 scope of his employment, shall in every case be deemed to  
27 be also the act, omission or failure of such public utility.

Sect. 31. Whenever the commission shall be of the opin-  
2 ion that a public utility, subject to its supervision, is failing  
3 to omitting or about to fail or omit, to do anything required  
4 of it by law or by order of the commission, or is doing any-  
5 thing, is about to do anything, or is permitting anything, or  
6 is about to permit anything to be done contrary to or in  
7 violation of law or of any order of the commission, it shall  
8 direct the Attorney General to commence an action or pro-  
9 ceeding in the Supreme Court in the name of the commis-  
10 sion for the purpose of having such violations or threatened  
11 violations prevented. The Attorney-General shall there-

12 upon begin such action or proceeding by petition to the Su-  
13 preme Court, alleging the violation or threatened violation  
14 complained of, and praying for appropriate relief. It shall  
15 thereupon be the duty of the court to specify a time not ex-  
16 ceeding twenty days after the service of the copy of the peti-  
17 tion, within which the public utility complained of must an-  
18 swer the petition, and in the meantime said public utility  
19 may be restrained. In case of default in answer, or after  
20 answer, the court shall immediately inquire into the facts  
21 and circumstances of the case. Such corporations or per-  
22 sons as the court may deem necessary or proper to be joined  
23 as parties in order to make its judgment order or writ ef-  
24 fective, may be joined as parties. The final judgment in  
25 any such action or proceeding, shall either dismiss the ac-  
26 tion or proceeding or direct that appropriate relief be grant-  
27 ed as prayed for in the petition or in modified or other form.

Sect. 32. An action to recover a penalty or forfeiture un-  
2 der this act shall be brought in any court of competent ju-  
3 risdiction in this state in the name of the state and shall be  
4 commenced and prosecuted to final judgment by the com-  
5 mission. All moneys recovered in any such action, together  
6 with the costs thereof, shall be paid into the State treasury.  
7 Any such action may be discontinued or compromised on  
8 application of the commission upon such terms as the court  
9 shall approve and order.

Sect. 33. The commission may at any time upon notice to  
2 the public utility and after opportunity to be heard as pro-

3 vided in Section twenty, rescind, alter, or amend any order  
4 fixing any rate, toll, charge, joint rate or rates, or any other  
5 order made by the commission, and certified copies of the  
6 same shall be served and take effect as herein provided for  
7 original orders.

Sect. 34. Any public utility or any complainant, aggrieved  
2 by any order of the commission fixing any rate, toll, charge,  
3 joint rate or rates, or any order fixing any regulation, meas-  
4 urement, practice, act, or service, may appeal to the Supreme  
5 Court for a reversal of such order on the ground that the  
6 rate, toll, charge, joint rate or rates fixed in the order are  
7 unlawful or unreasonable, or that such regulation, measure-  
8 ment, practice, act or service fixed in such order is unlawful  
9 or unreasonable.

The party prosecuting the appeal shall file a petition with  
11 the clerk of the Supreme Court in the county where the  
12 appellant resides, within seven days from the service of the  
13 order appealed from, and such petition shall set forth the  
14 grounds upon which it is claimed that the order appealed  
15 from is unlawful or unreasonable. Thereupon the clerk  
16 of the said court shall issue citation to all parties in interest,  
17 including the commission, returnable at any time within  
18 thirty days from date of its issue in the discretion of the  
19 court, and the court shall hear and determine, as soon as may  
20 be, the matter, and either sustain or reverse the order ap-  
21 pealed from. The court is hereby given authority to reg-  
22 ulate the practice and procedure in such appeal by such rules

23 as it may see fit to make: *Provided*, that all such appeals  
24 shall have precedence over other civil cases in the Supreme  
25 Court.

Sect. 35. Every such appeal shall act as a stay of the order  
2 appealed from: *Provided*, that the court, or if the court is  
3 not in session, any justice of such court, may at any time,  
4 order that such appeal shall not so operate if, in the opin-  
5 ion of such court, or justice, the appeal is brought for pur-  
6 poses of delay, or if justice, equity or public safety shall so  
7 require; or such court or justice may order that such appeal  
8 shall so operate only upon compliance by the parties, or any  
9 of them, with such terms or conditions as such court or jus-  
10 tice may determine: *Provided, further*, that if the order of  
11 the commission appealed from is sustained by the court,  
12 such order, shall, if previously stayed under the provisions  
13 of this section, take effect and become operative for all pur-  
14 poses under this act within five days from the date of the  
15 decree sustaining such order, unless the commission within  
16 such five days, shall upon the application of any party to  
17 such appeal, fix a different time when such order shall take  
18 effect and become operative, and such order so fixing the  
19 time shall not be subject to review by any court of this state.

Sect. 36. At any hearing in the course of such an appeal  
2 a transcript of the testimony before the commission in such  
3 case, duly certified by the stenographer taking the same, and  
4 allowed by one of the commissioners, shall be admitted as  
5 testimony.

Sect. 37. If, upon the hearing of the appeal, newly discovered evidence shall be introduced by the appellant which is found by the court to be of such a character, and of sufficient importance, to warrant a reconsideration of the order appealed from, the court, before proceeding to render a final decision, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to the commission, and shall stay further proceeding in said action for sixty days from the date of such transmission. Upon the receipt of such evidence the commission shall consider the same and may alter, amend, rescind the order appealed from, and shall report its action thereon to the court within fifty days from the receipt of such evidence. If the commission shall rescind the order appealed from, the appeal shall be dismissed. If it shall alter, or amend the same, such altered or amended order shall take the place of the original order appealed from and the court shall render its decree thereon as though made by the commission in the first instance. If the original order shall not be altered, amended or rescinded by the commission, the final decision shall be rendered upon such original order and the final decree entered in conformity therewith.

Sect. 38. Every public utility is required to furnish safe, reasonable and adequate services and 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 any persons or property between points within

6 the State, or for any heat, light, water or power produced,  
7 transmitted, delivered or furnished, or for any telephone or  
8 telegraph message conveyed, or for any service rendered or  
9 to be rendered in connection therewith shall be reasonable  
10 and just, and every unjust or unreasonable charge for such  
11 service is prohibited and declared unlawful.

Sect. 39. If any public utility or any agent or officer of a  
2 public utility as defined in this act, shall directly or indirectly  
3 by any device whatsoever, or otherwise charge, demand, col-  
4 lect or receive from any person, firm or corporation a great-  
5 er or less compensation for any service rendered or to be  
6 rendered by it in, or affecting, or relating to, the transpor-  
7 tation of persons or property between points within this  
8 State, or the production, transmission, delivery or furnish-  
9 ing of heat, light, water or power, or the conveyance of tele-  
10 graph or telephone messages, or for any service in connec-  
11 tion therewith, than that prescribed in the published sched-  
12 ules or tariffs then in force or established as provided herein  
13 or than it charges, demands, collects, or receives from any  
14 other person, firm or corporation for a like and contem-  
15 poraneous service, under substantially similar circumstances  
16 and conditions, such public utility shall be deemed guilty  
17 of unjust discrimination which is hereby prohibited and de-  
18 clared to be unlawful, and upon conviction thereof shall be  
19 fined not less than two hundred dollars and not more than  
20 five hundred dollars for each offense; and such agent or  
21 officer so offending shall be deemed guilty of a misdemeanor



22 and upon conviction thereof shall be fined not less than fifty  
23 dollars nor more than five hundred dollars for each offense.

Sect. 40. If any public utility shall make or give any un-  
2 due or unreasonable preference or advantage to any partic-  
3 ular person, firm, or corporation, or shall subject any partic-  
4 ular person, firm, or corporation to any undue or unreason-  
5 able prejudice or disadvantage in any respect whatsoever,  
6 such public utility shall be deemed guilty of a misdemeanor  
7 and upon conviction thereof shall be fined not less than two  
8 hundred dollars nor more than five hundred dollars for each  
9 offense.

Sect. 41. It shall be unlawful for any person, firm, or  
2 corporation knowingly to solicit, accept or receive any re-  
3 bate, concession or discrimination in respect to any service  
4 in, or affecting, or relating to, the transportation of persons  
5 or property, or affecting or relating to the production, trans-  
6 mission, delivery or furnishing of heat, light, water or power,  
7 or the conveyance of telephone or telegraph messages within  
8 this state, or for any service in connection therewith, where-  
9 by such service shall by any device whatsoever or otherwise  
10 be rendered free, or at a less rate than that named in the  
11 published schedules and tariffs in force as provided herein,  
12 or whereby any service or advantage is received other than  
13 is herein specified. Any person, firm or corporation vio-  
14 lating the provisions of this section shall be deemed guilty  
15 of a misdemeanor and upon conviction thereof shall be pun-  
16 ished by a fine of not less than fifty dollars nor more than

17 five hundred dollars for each offense.

Sect. 42. The provisions of section thirty-nine, forty and  
2 forty-one of this act shall be subject to the following ex-  
3 ceptions:

(a) A public utility may issue or give free transporta-  
5 tion or service to its employees and their families, its offi-  
6 cers, agents, surgeons, physicians and attorneys-at-law, and  
7 to the officers, agents, and employees, and their families of  
8 any other public utility.

(b) With the approval of the commission any public  
10 utility may give free transportation or service, upon such  
11 conditions as such public utility may impose, or grant spe-  
12 cial rates therefor to the state, to any town or city, or to  
13 any water or fire district, and to the officers thereof, for  
14 public purposes, and also to any special class or classes of  
15 persons, not otherwise referred to in this section, in cases  
16 where the same shall seem to the commission just and rea-  
17 sonable, or required in the interests of the public, and not  
18 unjustly discriminatory.

(c) With the approval of the commission any public  
20 utility operating a railroad or street railway may furnish  
21 to the publishers of newspapers and magazines, and to their  
22 employees, passenger transportation in return for advertis-  
23 ing in such newspapers or magazines at full rates.

(d) With the approval of the commission any public  
25 utility may exchange its service for the service of any other  
26 public utility furnishing a different class of service.

Sect. 43. 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  
3 prohibited or declared to be unlawful, or shall omit to do  
4 any act, matter or thing to be done by it, such public utility  
5 shall be liable to the person, firm, or corporation injured  
6 thereby, in an action of the case, to be brought within three  
7 years from the time the cause of action accrues and not  
8 after, for the amount of damage sustained in consequence  
9 of such violation: *Provided*, that any recovery as in this  
10 section provided shall in no manner affect the recovery by  
11 the state of the penalty prescribed for such violation.

Sect. 44. The commission shall have power, when deemed  
2 by it necessary to prevent injury to the business or interest  
3 of the people or any public utility of this state in case of  
4 any emergency to be judged of by the commission, to per-  
5 mit any public utility to temporarily alter, amend or sus-  
6 pend any existing rates, schedules and order relating to or  
7 affecting any public utility or part of any public utility in  
8 this state.

Sect. 45. The commission may, after having given any  
2 public utility concerned, a reasonable notice and an oppor-  
3 tunity to be heard, determine and fix by order the standard  
4 amount, quality, pressure, initial voltage and character of  
5 each kind of product or service to be furnished or rendered  
6 by any public utility, and standard condition or conditions  
7 pertaining to furnishing or rendering the same, and there-  
8 after the public utility concern shall furnish and render the

9 same accordingly, but with and subject to the right of ap-  
10 peal given by section thirty-four hereof.

Sect. 46. The commission shall ascertain and fix adequate  
2 and serviceable standards for the measurement of the qual-  
3 ity, pressure, initial voltage or other condition pertaining to  
4 the supply of the product or service rendered by any public  
5 utility and prescribe reasonable regulations for the examina-  
6 tion and testing of such product or service and for the meas-  
7 urement thereof. It shall establish reasonable rules, regu-  
8 lations, specifications and standards to secure accuracy of  
9 all meters and appliances for measurement, and every public  
10 utility is required to carry into effect all orders issued by  
11 the commission relative thereto.

Sect. 47. The commission shall provide for the examina-  
2 tion and testing of any and all appliances used for measur-  
3 ing any product or service of any public utility. Any con-  
4 sumer or user may have any such appliances tested upon  
5 payment of the fee fixed by the commission. The commis-  
6 sion shall declare and establish reasonable fees to be paid  
7 for the testing of such appliances on the request of the con-  
8 sumers or users, the fee to be paid by the consumer or user  
9 at the time of his request, but to be paid by the public utility  
10 and repaid to the customer or user if the appliances be  
11 found defective or incorrect or to the disadvantage of the  
12 consumer or user. A meter shall be deemed correct for the  
13 purposes of this section if it appears from such examination  
14 or test that it does not vary more than two per cent from the

15 standard approved by the commission.

Sect. 48. 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  
5 in force at the time for any service performed by it within  
6 the state, or for any service in connection therewith or per-  
7 formed by any public utility controlled or operated by it.  
8 A copy of so much of said schedules as the commission shall  
9 deem necessary for the use of the public shall be printed in  
10 plain type, or typewritten, and be kept on file in every sta-  
11 tion, or office of such public utility where payments are made  
12 by the consumers or users, open to the public in such form  
13 and place as to be easily accessible and conveniently inspect-  
14 ed, and as the commission may order. No change shall be  
15 made in the rates, tolls and charges which have been filed  
16 and published by any public utility in compliance with the  
17 requirements of this section, except after thirty days' notice  
18 to the commission and to the public published as aforesaid,  
19 which shall plainly state the changes proposed to be made  
20 in the schedule then in force, and the time when the changed  
21 rates, tolls or charges will go into effect: *Provided*, that  
22 the commission may, in its discretion and for good cause  
23 shown, allow changes within less time than required by the  
24 notice herein specified, or modify the requirements of this  
25 section in respect to filing and publishing tariffs either in  
26 particular instances or by a general order applicable to spe-

27 cial or particular circumstances or conditions. The com-  
28 mission may determine and prescribe the form in which the  
29 schedules, required by this section to be kept open to public  
30 inspection, shall be prepared and arranged, provided that  
31 with respect to public utilities subject to the federal "Act  
32 to Regulate Commerce," so called, the form of such sched-  
33 ules shall be that from time to time prescribed by the Inter-  
34 state Commerce Commission.

Sect. 49. Every public utility shall, whenever any accident  
2 attended with loss of human life, or serious injury occurs  
3 within this state, directly or indirectly arising from or con-  
4 nected with its maintenance or operation, give immediate  
5 notice thereof to the commission. In the event of any such  
6 accident, the commission, if it deem that public interest re-  
7 quires it, shall cause an investigation to be made forthwith,  
8 which investigation shall be held in the locality of the acci-  
9 dent, unless for the greater convenience of those concerned,  
10 it shall order the investigation to be held at some other  
11 place; and said investigation may be adjourned from place  
12 to place as may be found necessary and convenient. The  
13 commission shall reasonably notify the public utility of the  
14 time and place of the investigation. The notice herein re-  
15 quired to be given shall not be admitted as evidence or used  
16 for any purpose against such public utility giving any such  
17 notice, in any suit, action or proceeding brought for dam-  
18 ages growing out of any matter mentioned in said notice;  
19 nor shall any such notice be admitted as evidence or be used

20 for any purpose in any criminal proceeding brought against  
21 the public utility giving such notice, or against any of its  
22 officers, agents, or employees, growing out of any matter  
23 mentioned in such notice.

Sect. 50. Whenever the commission shall find upon hear-  
2 ing and investigation under the provisions of this act, either  
3 on its own motion or upon complaint as hereinbefore pro-  
4 vided, that the plant or equipment of any public utility is  
5 inadequate, insufficient or unsuited to the public needs, or  
6 that repairs, improvements, or changes in such plant or  
7 equipment ought reasonably to be made, or that an addition  
8 to, alteration, or extension of, the plant or equipment of any  
9 public utility ought reasonably to be made, the commission  
10 shall have power to order that such repairs, improvements,  
11 changes, additions, alterations, or extensions to the plant or  
12 equipment be made within a reasonable time and in a man-  
13 ner to be specified therein, provided that any such order  
14 shall be subject to the right of appeal upon the same terms  
15 as provided in section thirty-four.

Sect. 51. Every franchise granted to any public utility by  
2 any town or city and all contracts, ordinances, rules, regu-  
3 lations and orders entered into or made by any town or city  
4 regulating the use and enjoyment of rights and franchises  
5 granted to any public utility under the provisions of any  
6 general or special law, shall be subject to the continuing  
7 control of the commission in the exercise of the powers  
8 enumerated in this act, and during the existence thereof,

9 every such franchise, contract, ordinance, rule, regulation  
10 and order shall be deemed to include, and be subject to, the  
11 exercise by the commission of any and all of the powers of  
12 regulation provided for in this act.

Sect. 52. The use and enjoyment of all rights and fran-  
2 chises granted under the laws of the state, shall be subject  
3 to such reasonable rules and regulations and orders, con-  
4 trolling the extent and quality of construction and service  
5 to be maintained by the corporation to which such rights  
6 are granted, and prescribing the location and arrangement  
7 of its tracks, poles, wires, or conduits, and their appurte-  
8 nances, as are, or may be from time to time, enacted by any  
9 town or city. In case any such regulation or enactment  
10 shall seem to any such corporation to be unreasonable, such  
11 corporation, within thirty days after the same has been  
12 passed, may complain to the Public Utilities Commission  
13 setting forth that such regulation or order is not reasonable  
14 in the premises; and thereupon said commission shall pro-  
15 ceed to hear and determine the matter in accordance with  
16 the provisions of the Public Utilities Act; subject, however,  
17 to the right of appeal to the Supreme Court therein con-  
18 tained.

Sect. 53. Whenever any highway bridge over which a  
2 street railway is operated shall become unsafe for public  
3 travel, the public utility operating such railway shall pay  
4 the whole expense of repairing, strengthening, or recon-  
5 structing such bridge, if such bridge would be safe for pub-



6 lic travel if such railway were not operated over it; but if  
7 a reconstruction of such bridge or the construction of a new  
8 bridge is required for any other cause, or if such bridge  
9 would be unsafe for public travel if such railway were not  
10 operated over it, then so much of the expense of repairing,  
11 strengthening, constructing, or reconstructing such bridge as  
12 may be equitable shall be paid by the public utility operating  
13 such railway. In the event of any disagreement between  
14 such public utility and the town or city bound by law to  
15 maintain any such bridge, as to the necessity of any repair or  
16 reconstruction thereof, or as to the character of such repair  
17 or reconstruction, or as to the apportionment of the expense  
18 of such repair or reconstruction, the commission, upon ap-  
19 plication of any party in interest, and after due hearing,  
20 shall, subject to the provisions of section thirty-four, make  
21 such orders as it shall deem necessary, in the interest of  
22 public safety, for the repair, strengthening, or reconstruc-  
23 tion of such bridge, and shall determine in accordance with  
24 the principle herein stated, the portion of the expense of  
25 such repair, strengthening, or reconstruction which shall be  
26 borne by such public utility.

Sect. 54. All orders, decisions, requests or ordinances  
2 hereafter made by any town or city under the provisions of  
3 the laws of the state, shall be subject to the supervision and  
4 control of the commission as herein provided. Upon the  
5 written complaint of any public utility, or by ten qualified  
6 electors residents of the town or city, the order of said town

7 or city shall be drawn in question, upon the ground that  
8 such order, decision, request or ordinance is unreasonable,  
9 the commission shall set a hearing as provided in section  
10 nineteen and if the commission shall find that the order,  
11 decision, request or ordinance is unreasonable, such order,  
12 decision, request or ordinance shall be void, provided no  
13 appeal therefrom as hereinafter provided shall be taken:  
14 *provided*, that nothing in this act shall be construed to take  
15 away or limit the existing powers of the towns or cities to  
16 abolish grade crossings. Every order, determination or find-  
17 ing of the commission under this section, shall be subject to  
18 appeal in the Supreme Court upon the same terms as pro-  
19 vided in section thirty-four.

Sect. 55. All the powers and duties conferred by law upon  
2 and required to be performed by the railroad commissioners  
3 at the time of the passage of this act, shall hereafter devolve  
4 upon and be exercised and performed by the Public Utilities  
5 Commission. All restrictions not inconsistent with the pro-  
6 visions of this act, imposed by law upon any railroad or  
7 street railway corporation, heretofore subject to regulation  
8 by the railroad commissioners, shall continue in full force  
9 and effect and all other things made subject to the regula-  
10 tion or requiring the sanction or approval of said railroad  
11 commissioners, and all proceedings or transactions of what-  
12 ever nature to which the railroad commissioners are by law  
13 made a party, shall hereafter be subject to full regulation  
14 and performance by the said commission, in accordance with

15 the provisions and limitations prescribed in this act.

Sect. 56. Any public utility which shall violate any pro-  
2 vision of this act, or shall do any act herein prohibited, or  
3 shall fail or refuse to perform any duty enjoined upon it  
4 for which a penalty of not less than two hundred dollars  
5 nor more than five hundred dollars, and in case of a con-  
6 tinuing violation of any of the provisions of this act, every  
7 day's continuance thereof shall be and be deemed to be a  
8 separate and distinct offense.

Sect. 57. So much of the laws of the state as relates to  
2 the railroad commissioners and all other acts and parts of  
3 acts whether general or special, which are inconsistent with  
4 the provisions of this act are hereby repealed.

Sect. 58. The provisions of this act shall be interpreted  
2 and construed liberally in order to accomplish the purposes  
3 thereof, and where any specific power or authority is given  
4 the commission by the provisions of this act the enumera-  
5 tion thereof shall not be held to exclude or impair any power  
6 or authority otherwise in this act conferred on said com-  
7 mission. The commission shall have, in addition to the  
8 powers in this act specified, mentioned and indicated all  
9 additional, implied and incidental power which may be  
10 proper and necessary to effect and carry out, perform and  
11 execute all the said powers herein specified, mentioned and  
12 indicated. A substantial compliance with the requirements  
13 of this act shall be sufficient to give effect to all the rules,  
14 orders, acts and regulations of the commission, and they

15 shall not be declared inoperative, illegal, or void for any  
16 omission of a technical nature in respect thereto. Each sec-  
17 tion of this act, and every part of each section, are hereby  
18 declared to be independent sections, and the holding of any  
19 section or sections or part or parts thereof to be void, in-  
20 effective, or unconstitutional for any cause shall not be  
21 deemed to affect any other section or part thereof.