

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE

1913

Including Acts and Resolves of the Special Session held
in 1912.

Published by the Secretary of State, agreeably to Resolves of
June 28, 1820, February 18, 1840, and March 16, 1842.

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1913

PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-Sixth
Legislature

1913

**The following law
(P.L. 1913, ch. 129)
survived a people's veto,
September 14, 1914.**

Question:

"Those in favor of the control of the public utilities of the State of Maine, in the manner provided by [the act] will place a cross X in the square marked 'Yes.'"

Yes: 67,635

No: 37,008

son of such interest being conditioned upon the happening of a contingency or dependent upon the exercise of a discretion or subject to a power of appointment or otherwise, the attorney general may effect such settlement of the tax as he shall deem for the best interests of the state and payment of the sum so agreed upon shall be full satisfaction of such tax,' so that said section as amended shall read as follows:

'Section 70. Whenever property shall descend by devise, descent, bequest or grant to a person for life or for a term of years and the remainder to another, except to or for the use of any educational, charitable, religious or benevolent institution in this state, the value of the prior estate shall be determined by the Actuaries' Combined Experience Tables at four per cent compound interest and a tax imposed at the rate prescribed in the preceding section for the class to which the devisee, legatee or grantee of such estate belongs and a tax shall be imposed at the same time upon the remaining value of such property at the rate prescribed in said section for the class to which the devisee, legatee or grantee of such remainder belongs, subject to the exemptions provided in the preceding section.

In every case in which it is impossible to compute the present value of any interest, by reason of such interest being conditioned upon the happening of a contingency or dependent upon the exercise of a discretion or subject to a power of appointment or otherwise, the attorney general may effect such settlement of the tax as he shall deem for the best interest of the state and payment of the sum so agreed upon shall be a full satisfaction of such tax.'

Section 2. The provisions of this act shall apply to all cases in which the tax remains unpaid at the date of the enactment hereof.

Approved March 26, 1913.

Chapter 129.

An Act to Create a Public Utilities Commission, Prescribe its Powers and Duties, and Provide for the Regulation and Control of Public Utilities.

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

PUBLIC UTILITIES COMMISSION ESTABLISHED.

Section 1. The governor with the advice and consent of the council shall appoint three commissioners, one of whom he shall designate as chairman, which said commissioners shall

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Whenever remainder of any property is bequeathed to a collateral heir, a stranger to the blood, it shall be taxed.

—value of prior estate, how determined.

When impossible to compute present value of interest

—the attorney general may decide.

Cases to which this act shall apply.

Appointment of commissioners.

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be jointly known as the Public Utilities Commission. Said commission shall adopt and have a seal and be provided with an office at the State House in which its records shall be kept. Under the direction of the governor and council said commission may expend such sums of money as may be necessary for the purchase of books, maps, stationery, office furniture and supplies, for procuring statistics and information and for defraying expenses incidental to the discharge of its duties. A statement of such expenses shall accompany its annual report. Said commission shall appoint a clerk and an assistant clerk. The clerk shall keep a full and minute record of the proceedings of the commission which shall be open to public inspection at all times. The assistant clerk shall assist the clerk in the performance of his duties, and in the absence of the clerk shall have the same powers as the clerk.

—office at state house.

—equipment.

—report of expenses.

—clerk and assistant clerk, duties of.

Members of commission and employes shall not be connected with any public utility.

—commissioner shall hold no other office.

—exception.

—commissioner may be removed for violation of this section.

Salaries and expenditures.

No member or employee of said commission shall have any official or professional connection or relation with or hold any stock or securities in any public utility as herein defined, operating within the State of Maine, nor shall he render any professional service against any such public utility, nor shall he be a member of a firm which shall render any such service. No commissioner shall hold any other office of profit or trust under the government of the United States or of this state except the office of justice of the peace or notary public, nor shall he serve on or under any committee of any political party. Any wilful violation of the provisions of this act by any commissioner shall constitute sufficient cause for his removal by the governor with the advice and consent of the council.

Section 2. The annual salary of each member of said commission shall be, for the chairman five thousand dollars, and for each other member four thousand five hundred dollars; the salary of the clerk shall be twenty-five hundred dollars, and the salary of the assistant clerk shall be fifteen hundred dollars; and the commissioners, their clerks and all employees shall receive actual expenses when travelling on official business. The chairman of the commission first appointed shall hold office for seven years, and the other members thereof shall hold office for five years and three years respectively; and the terms of the two latter shall be designated by the governor when making the appointments. Each member thereafter appointed shall hold office for seven years. Any vacancy occurring in said commission shall be filled in the same manner as by original appointment, but such appointment shall be only for the unex-

—term of office.

—vacancies how filled.

pired portion of the term in which such vacancy occurs.

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Section 3. The commission shall have the right to employ such expert, professional, or other assistance as is necessary in making investigations or in otherwise carrying out the provisions of this act, and may make all necessary rules and regulations.

Commission may employ expert assistance.

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

Investigations by commission.

Section 5. The commission or any commissioner or any person or persons employed by the commission for that purpose, shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any public utility in relation to its business and affairs and to take copies thereof. Any person other than one of said commissioners who shall make such demand shall produce his authority to make such inspection. Such person or persons so employed shall not directly or indirectly divulge any information so derived to any one except to the commission or under direction of the commission. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars and by imprisonment for not more than one year.

Commission shall have right to inspect books, etc.

—agents shall produce authority to inspect.

—shall not divulge information.

—penalty.

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

Utilities shall furnish information.

Section 7. The commission may require, by order or subpoena to be served on any public utility in the same manner that a summons is served in a civil action in the supreme judicial court, the production within this state at such time and place as it may designate, of any books, accounts, papers or records kept by said public utility and within its control in any office or place within or outside the state, or verified copies thereof instead, if the commission shall so order, so that an examination thereof may be made by the commission or under its direction. Any public utility or any officer, agent or attorney thereof failing or refusing to comply with any such order or subpoena shall, for each day it shall so fail or refuse, forfeit and pay into the

Commission may serve order for production of books, etc.

—penalty for failure to obey order.

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state treasury a sum not less than fifty dollars nor more than five hundred dollars to be recovered by the state in an action on the case, which may be instituted by the commission in the name of the state.

Commission shall inquire into violations of law, by public utilities.

Section 8. The commission shall inquire into any neglect or violation of the laws of the state by any public utility doing business therein, or by the officers, agents or employees thereof or by any person operating the plant of any public utility; and shall have the power and it shall be its duty to enforce the provisions of this act and all other laws relating to public utilities and to report all violations thereof to the attorney general. Upon the request of the commission it shall be the duty of the attorney general or of the county attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act and of all other laws of this state relating to public utilities and to the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered and suit therefor be brought in the name of the state in the supreme judicial court in the county where the main office of the public utility is located or in Kennebec county. Complaint for the recovery of any such forfeiture may be made by the commission or any member thereof, and when so made the action so commenced shall be prosecuted by the attorney general. The commission shall have authority to employ counsel in any proceeding, investigation or trial.

—attorney general and county attorneys shall aid commission.

—suit to recover penalties.

—complaint, by whom made.

DEFINITIONS.

Commission.

Section 9. The term "commission" when used in this act, means the Public Utilities Commission.

Commissioner.

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

Corporation.

The term "corporation" when used in this act, includes municipal and quasi-municipal corporations.

Person.

The term "person" when used in this act, includes an individual, a co-partnership and a voluntary association.

Transportation of persons.

The term "transportation of persons" when used in this act, includes every service in connection with or incidental to the safety, comfort and convenience of the person transported and the receipt, carriage and delivery for such person and his baggage.

Transportation of property.

The term "transportation of property" when used in this act, includes every service in connection with or incidental to the transportation of property, including in particular its receipt,

delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and handling, and the transmission of credit by express or telegraph companies. CHAP. 129

The term "street railroad" when used in this act, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property. Street rail-
road.

The term "street railroad company" when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for compensation within this state. Street rail-
road com-
pany.

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

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

The term "express company" when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or over any stage line or auto stage line within the state when such freight, merchandise or other property is regularly prepaid to its destination. Express
company.

The term "common carrier" when used in this act, includes every railroad company, street railroad company, express company, dispatch, sleeping car, dining car, drawing room car, freight, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or per- Common
carrier.

CHAP. 129 son, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state or upon the high seas, over regular routes between points within this state.

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

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

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

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

Telephone line. The term "telephone line" when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone, whether such communication

is had with or without the use of transmission wires.

The term "telephone company" when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for compensation within this state.

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Telephone
company.

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

Telegraph
line.

The term "telegraph company" when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telegraph line for compensation within this state.

Telegraph
company.

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

Water
works.

The term "water company" when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water works for compensation within this state.

Water com-
pany.

The term "vessel" when used in this act, includes every steamboat which is owned, controlled, operated or managed for public use, in the transportation of persons or property for compensation within this state.

Vessel.

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

Wharfing-
er.

The term "warehouseman" when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any building or structure in which prop-

Warehouse-
man.

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Public utility.

The term "public utility" when used in this act, includes every common carrier, gas company, electrical company, telephone company, telegraph company, water company, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission, and to the provisions of this act.

RATES AND ACCOUNTING.

Public utility shall furnish safe and reasonable facilities.

Section 10. Every public utility is required to furnish safe, reasonable and adequate facilities. The rate, toll or charge, or any joint rate made, exacted, demanded or collected by any public utility for the conveyance or transportation of persons or property between points within this state, or for any heat, light, water or power produced, transmitted, delivered or furnished, or for any telephone or telegraph message conveyed, or for any service rendered or to be rendered in connection with any public utility, shall be reasonable and just, taking into due consideration the fair value of all its property with a fair return thereon, its rights and plant as a going concern, business risk and depreciation. Every unjust or unreasonable charge for such service is hereby prohibited and declared unlawful.

—charges shall be reasonable and just.

Commission to prescribe uniform system of accounts.

Section 11. Every public utility shall keep and render to the commission in the manner and form prescribed by the commission, uniform accounts of all business transacted. In formulating a system of accounting for any class of public utilities the commission shall consider any system of accounting established by any federal law, commission or department, and any system authorized by the national association of such utilities.

Utility may be required to render account of subsidiary business.

Section 12. Every public utility engaged directly or indirectly in any other subsidiary business shall, if ordered by the commission, keep and render separately to the commission in like manner and form, the accounts of all such business, in which case all the provisions of this act shall apply with like force and effect to the books, accounts, papers and records of such other business.

Commission shall prescribe forms of all books, records, etc.

Section 13. The commission shall prescribe the forms of all books, accounts, papers and records required to be kept, and every public utility is required to keep and render its books,

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accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission and to comply with all directions of the commission relating to such books, accounts, papers and records; provided that the requirements of this section shall not apply to a public utility having no property located within this state other than such as is employed therein while in transit, but every such public utility shall appoint an agent residing in this state upon whom all notices, processes of the commission or other papers relating to the provisions of this act may be served, and shall file a copy of such appointment with the clerk of the commission.

—this section not to apply to utility out of this state.

—exception.

Section 14. The commission shall cause to be prepared suitable blanks for carrying out the purposes of this act, and shall when necessary, furnish such blanks to each public utility.

Commission shall prepare blanks.

Section 15. No public utility shall keep any other books, accounts, papers or records of its business transacted than those prescribed or approved by the commission, provided, however, that nothing contained in this act shall require any public utility engaged in interstate commerce, to do, or not to do, anything contrary to the requirements of any federal law, relating thereto.

Other systems prohibited.

Section 16. The accounts of all public utilities shall be closed annually on the thirtieth day of June, and a balance sheet of that date promptly taken therefrom. On or before the first day of September following, such balance sheet together with such other information as the commission shall prescribe, verified by an officer or owner of the public utility, shall be filed with the commission.

Accounts, when closed.

Section 17. The commission shall provide for the examination and audit of all accounts and all items shall be allocated to the accounts in the manner prescribed by the commission.

Audit of accounts.

Section 18. The agents, accountants or examiners employed by the commission shall have authority within or outside the state under the direction of the commission to inspect and examine any and all books, accounts, papers, records and memoranda kept by any public utility.

Authority of agents to inspect records of public utilities.

Section 19. Every public utility shall file with the commission within a time to be fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it or in conjunction therewith. The rates, tolls and charges shown on the schedules first to be filed shall not exceed the rates, tolls and charges which

Public utility shall file schedule of rates.

—rates not to exceed those of January 1, 1913.

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were in force on January first, nineteen hundred and thirteen, except that the rates, tolls and charges of utilities under the jurisdiction of the Interstate Commerce Commission, shown on the schedules first to be filed, shall be the rates, tolls and charges in force when this Act goes into full effect.

Section 20. Every public utility shall file with and as a part of such schedules all rules and regulations that in any manner affect the rates charged or to be charged for any service.

Utilities shall file rate rules, etc.

Section 21. A copy of so much of said schedules as the commission shall deem necessary for the use of the public shall be printed in plain type and kept on file in every station or office of said public utility where payments are made by the consumers or users, open to the public under such rules and regulations as may be prescribed by the commission.

Schedules of joint rates.

Section 22. Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedules shall in like manner be printed and filed with the commission and so much thereof as the commission shall deem for the use of the public shall be filed in every such station or office as provided in section twenty-one of this act.

Notice of change of rates required.

Section 23. No change shall hereafter be made in any schedule including schedules of joint rates, except upon ten days' notice to the commission, and all such changes shall be plainly indicated upon existing schedules or by filing new schedules in lieu thereof ten days prior to the time the same are to take effect.

New schedules to be printed and open to the public.

Section 24. Copies of all new schedules shall be filed as hereinbefore provided in every station and office of such public utility where payments are made by customers or users ten days prior to the time the same are to take effect, unless the commission shall prescribe a less time.

No unreasonable preference of rebate.

Section 25. It shall be unlawful for any public utility to charge, demand, collect or receive a greater or less compensation, except as otherwise provided in section thirty-two of this act for any service performed by it within the state or for any service in connection therewith, than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, or to demand, collect or receive any rate, toll or charge not specified in such schedules. The rates, tolls and charges named therein shall be the lawful rates, tolls and charges until the same are changed as provided in this act. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.

Section 26. The commission shall provide for a comprehensive classification of service for each public utility and such classification may take into account the quantity used, the time when used, the purpose for which used and any other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls and charges to such classification.

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Comprehensive classification of service.

REGULATION AND CONTROL.

Section 27. Section one of chapter fifty-five of the Revised Statutes is hereby amended so as to read as follows:

'Section 1. Corporations for the operation of telegraphs or telephones, and corporations for the operation of both telegraphs and telephones, and corporations for the purpose of making, generating, selling, distributing and supplying gas or electricity or both for lighting, heating, manufacturing or mechanical purposes, in any city or town, or two or more adjoining cities or towns within the state, or for either or any of such purposes, may be organized under the provisions of sections five to ten inclusive of chapter forty-seven, but no corporation so organized, person or association shall have authority, without the consent of said public utilities commission to furnish its service in or to any city or town in or to which another corporation, person or association is furnishing or is authorized to furnish a similar service.'

Section 1 of chapter 55, R. S., amended.

No organization of new corporation without consent of commission in any place occupied by old corporation or person.

Section 28. No such consent and no license, permit or franchise shall be granted to any person, association or corporation to operate, manage or control any public utility of the kind named in section twenty-seven in any city or town where there is in operation a public utility engaged in similar service or authorized therefor until said commission has made a declaration after a public hearing of all parties interested that public convenience and necessity require such second public utility.

Consent to be had only after hearing.

Section 29. No such consent to operate, manage or control any public utility shall be hereafter granted to a corporation unless such corporation is duly organized under the laws of the state of Maine or authorized by such laws to do business in this state.

Consent only given to corporation organized under laws of Maine.

Section 30. It shall be unlawful for any public utility to demand, charge, collect or receive from any person, firm or corporation less compensation for any service rendered or to be rendered by such public utility in consideration of the furnishing by such person, firm or corporation of any part of the facilities incident thereto; provided that nothing herein shall be construed as prohibiting any public utility from renting any

Utilities must not give special privileges.

—proviso.

CHAP. 129 facilities incident to the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of telephone or telegraph messages and paying a reasonable rental therefor, or as requiring any public utility to furnish any part of such appliances which are situated in or upon the premises of any customer or user, except telephone station equipments upon the subscribers' premises, and unless otherwise ordered by the commission, meters and appliances for the measurement of any product or service; and provided further that nothing herein shall affect scheduled classifications of telephone service wherein separate charges are made for facilities and for service or scheduled classifications of rural telephone service wherein a portion of the facilities are regularly furnished by the user of the service.

Penalty for unreasonable preference.

Section 31. If any public utility make or give any undue or unreasonable preference or advantage to any particular person, firm or corporation or any undue or unreasonable prejudice or disadvantage in any respect whatever, such public utility shall be deemed guilty of unjust discrimination which is hereby prohibited and declared unlawful.

Unlawful to receive or solicit rebates. —exceptions.

Section 32. It shall be unlawful for any person, firm or corporation knowingly to solicit, accept or receive any rebate, discount or discrimination in respect to any service rendered or to be rendered by any public utility, or for any service in connection therewith whereby any such service shall in any manner, or by any device whatsoever, be rendered free or at a rate less than named in the schedules in force as provided herein or whereby any service or advantage is received other than is herein specified; provided that this act shall not prohibit such free or reduced rate transportation by common carriers as is defined and provided for 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, nor shall it be unlawful for any public utility to make special rates to its employees or in cases of emergency service, nor shall the furnishing by any public utility of any product or service at the rates and upon the terms and conditions provided for in any contract in existence January first, nineteen hundred thirteen, be construed as constituting a discrimination, or undue or unreasonable preference, or advantage within the meaning specified; provided however that when any such contract or contracts are or become terminable by notice by such utility the com-

—exception.

mission shall have power in its discretion to direct by order that such contract or contracts shall be terminated by such utility as and when directed by such order. Any person, firm or corporation violating the provisions of this section shall be punished by a fine of not more than one thousand dollars for each offense.

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—penalty.

INVESTIGATION OF ACCIDENTS.

Section 33. In the event of an accident resulting in the loss of human life occurring upon the premises of any public utility, or directly or indirectly arising from or connected with its maintenance or operation, the commission shall cause an investigation thereof to be made forthwith, and in the event of any such accident resulting in personal injury or damage to property the commission may make such investigation if in its judgment the public interest requires it, which investigation shall be held in the locality of the accident, unless for the greater convenience of those concerned it shall order such investigation to be held at some other place; such investigation may adjourn from place to place as may be found necessary and convenient. The commission shall seasonably notify the public utility of the time and place of the investigation, and such public utility may then be heard; and the commission shall have power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable. Every public utility is hereby required to file with the commission under such rules and regulations as the commission may prescribe, reports of accidents so occurring, in the manner and form designated by the commission; provided, however, that in case of accidents resulting in loss of human life, such report shall be made immediately by telephone or telegraph followed by a detailed written report; provided that neither the order nor recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of the loss of life or injury to person or property in this section referred to. Section sixty-five of chapter fifty-two of the revised statutes is hereby repealed.

Commission shall investigate accidents.

—accidents shall be reported to commission.

—accidents resulting in death shall be reported by telegraph or by telephone.

—section 65 of chapter 52, R. S., repealed.

PHYSICAL VALUATION.

Section 34. Said commission shall have power and it shall be its duty to fix a reasonable value upon all the property of any public utility used or required to be used in its service to the public within the state whenever it deems a valuation there-

Commission to ascertain valuation of property.

CHAP. 129 of to be necessary for the fixing of fair and reasonable rates, tolls and charges; and in making such valuation they may avail themselves of any reports, records or other information available to them in the office of any state officer or board.

APPROVAL OF STOCKS, BONDS AND NOTES.

Issue must be authorized by the commission.

Section 35. Any public utility now organized and existing, and doing business in the state or hereafter incorporated under and by virtue of the laws of the State of Maine may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of not more than twelve months after the date thereof, when necessary for the acquisition of property to be used for the purpose of carrying out its corporate powers, the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for such other purposes as may be authorized by law; provided and not otherwise, that upon written application, setting forth such information as the commission may require, there shall have been secured from the commission an order authorizing such issue and the amount thereof and stating that in the opinion of the commission the sum of the capital to be secured by the issue of said stocks, bonds, notes or other evidences of indebtedness is required in good faith for purposes enumerated in this section; but the provisions of this act shall not apply to any stocks or bonds or other evidences of indebtedness heretofore lawfully authorized and issued; provided, however, that the commission may at the request of any public utility approve the issue of any stocks or bonds heretofore authorized but not issued. For the purpose of enabling the commission to determine whether it shall issue such an order, the commission shall make such inquiries for investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. No order of the commission authorizing the issue of any stocks, bonds, notes, or other evidences of indebtedness shall limit or restrict the powers of the commission in determining and fixing any rate, fare, toll, charge, classification schedule, or joint rate as provided in this act; provided, however, that no public utility shall be required to apply to the commission for authority to issue stocks, bonds, notes or other evidences of indebtedness for the acquisition of property, for the purposes of carrying out its corporate powers, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance

—investigation by commission.

—proviso.

nance of its service outside the state, and this proviso shall apply also to the following section. CHAP. 129

Section 36. No public utility shall issue any stocks, bonds, notes or other evidences of indebtedness unless payable within one year from date thereof, for money, property or services in payment for the same, either directly or indirectly, until there shall have been recorded upon the books of such public utility the order of the commission as herein provided; and no indebtedness shall in whole or in part, directly or indirectly, be refunded by any issue of stocks or bonds or by any other evidence of indebtedness running for more than twelve months, without the consent of the commission.

Conditions under which public utility may issue stocks, etc.

Section 37. No public utility shall declare any stock, bond or scrip dividend or divide the proceeds of the sale of its own or any stock, bond or scrip among stockholders without the consent of the commission.

Utility shall get consent to declare dividend.

CONTROL OF LEASES, CONSOLIDATIONS, ETC.

Section 38. No public utility shall henceforth sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its property necessary or useful in the performance of its duties to the public, or any franchise or permit, or any right thereunder, nor by any means whatsoever, direct or indirect, merge or consolidate its property, franchises or permits or any part thereof with any other public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The sale, lease, assignment, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit or to waive any forfeiture. Nothing in this section contained shall be construed to prevent the sale, lease or other disposition by any public utility of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility shall be conclusively presumed to have been of property which is not necessary or useful in the performance of its duties to the public, as to any purchaser of such property in good faith for value. Nothing in this section shall apply to property, franchises, permits or rights of any utility owned and operated exclusively

Utility shall not sell lease or mortgage without order of commission.

—unauthorized sale void.

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—utility cannot acquire stock of others without consent.

outside this state. No public utility shall hereafter purchase or acquire, take or hold any part of the capital stock of any other public utility organized or existing under or by virtue of the laws of this state without having been first authorized to do so by the commission. Every assignment, transfer, contract or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this section shall be void and of no effect; and no such transfer shall be made on the books of any public utility. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired or to prevent the acquiring of additional stock by a public utility which now owns a majority of the stock of such other utility.

PHYSICAL CONNECTIONS.

Commission may order physical connection with other utilities.

Section 39. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telephone companies or two or more telegraph companies whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections, for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone companies have failed to establish joint rates, tolls or charges for service by or over their said lines, and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conversations between points within the same city or town, and that conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and enforced in the future. If such telephone or telegraph companies do not agree upon the division between them of the cost of such physical connection or connections or the division of the joint rates, tolls or charges established by the commission over such through lines, the commission shall have authority, after further hearing, to establish such division by supplemental order.

—may order joint use, etc.

Commission may order use of one utility of equipment of another.

Section 40. Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility af-

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

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PROCEDURE.

Section 41. Upon written complaint made against any public utility by ten persons, firms, corporations or associations aggrieved, that any of the rates, tolls, charges or schedules or any joint rate or rates of any public utility are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act of said public utility is in any respect unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, being satisfied that the petitioners are responsible and that a hearing is expedient, shall proceed with or without notice, to make an investigation thereof. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practices or acts complained of shall be entered by the commission without a formal public hearing.

Complaint.

Section 42. The commission immediately upon the filing of such complaint shall notify in writing the public utility complained of that a complaint has been made, and of the nature thereof; and if at the expiration of ten days therefrom such public utility shall not have removed the cause of complaint to the satisfaction of the commission, said commission shall proceed to set a time and place for a hearing as hereinafter provided.

Notice to utility filing complaint.

Section 43. The commission shall give the public utility and the complainants at least ten days' notice of the time and place when and where such formal public hearing will be held. Both

Notice to utility of formal public hearing.

CHAP. 129 the public utility and the complainants shall be entitled to be heard and have process to enforce the attendance of witnesses as in civil actions in the supreme judicial court.

Commission to revise rates and render decision.

Section 44. If upon such formal public hearing the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of the provisions of this act, the commission shall have power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just or reasonable. If upon such public hearing it shall be found that any regulation, measurement, practice, act or service complained of as unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this act or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have power to establish and substitute therefor such other regulations, measurements, practice, service or acts, and to make such order respecting and such changes in such regulations, measurements, practice, service and acts as shall be just and reasonable.

Utility to charge rates and schedules as ordered.

Section 45. Every public utility to which such order applies shall make such changes in its schedules on file as may be necessary to make the same conform to said order; and no change thereafter shall be made by any public utility in any such rates, tolls or charges or in any joint rate or rates without the approval of the commission. Copies of all orders of the commission, certified by the clerk, shall be delivered to the public utility affected thereby and the same shall take effect within such time thereafter as the commission shall prescribe.

—copies of orders to be furnished to utility.

Commission may investigate on its own motion.

Section 46. Whenever the commission believes that any rate or charge is unjust or unreasonable or that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any public utility should for any reason be made, it may on its own motion, summarily investigate the same with or without notice. If after making such summary investigation the commission becomes satisfied that sufficient grounds exist to warrant a formal public hearing being ordered as to matters so investigated, it shall furnish such public utility interested a written statement giving notice of the matter under investigation. Ten days after such notice has been given the commission may proceed to set a time and place for a formal public hearing as hereinbefore provided.

—ten days notice to utility.

Notice of formal public hearing.

Section 47. Notice of the time and place of such hearing shall be given to the public utility and to such interested persons as the commission shall deem proper as provided in section

forty-three of this act; and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the commission relative thereto; and like orders may be made in reference thereto as if such investigation had been made on complaint.

Utility may make complaint.

Section 48. Any public utility may make complaint as to any matter affecting its own product, service or charges with like effect as though made by any ten persons, firms, corporations or associations.

Section 49. Each of the commissioners for the purposes mentioned in this act shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and testimony, to punish by fine and imprisonment for contempt and to issue all processes necessary to the performance of the duties of the commission.

Each commissioner may administer oaths, etc.

Section 50. Each witness who shall appear before the commission by its order, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the supreme judicial court, which shall be audited and paid by the state in the same manner as other state expenses are audited and paid upon the presentation of proper vouchers approved by the commission.

Witnesses and fees.

Section 51. The commission or any party may, in any formal public hearing, use the deposition of witnesses residing within or outside the state; such depositions to be taken in the manner prescribed by law for taking depositions in civil actions in the supreme judicial court.

Depositions.

Section 52. A full and complete record shall be kept of all proceedings had before the commission and of any investigation or formal public hearing and all testimony shall be taken by a stenographer to be appointed by the commission.

Record to be kept.

Section 53. Questions of law may be raised by alleging exceptions to the ruling of the commission on an agreed statement of facts, or on facts found by the commission, and such exceptions shall be allowed by the chairman of the commission and certified by the clerk thereof to the chief justice of the supreme judicial court with the arguments of counsel, if any have been received by him, within sixty days after such exceptions have been allowed. The party raising such questions shall, within thirty days thereafter deliver a copy of his argument to the opposing counsel, who shall within twenty days after receiving the same furnish a copy of his answer to the counsel for the moving party, who shall in turn make reply thereto with-

Appeal. Questions of law. Exceptions.

CHAP. 129 in ten days thereafter, and deliver said arguments to the clerk of the commission to be forwarded with the exceptions to the chief justice. And such questions of law shall be considered and decided by the law court as soon as may be; or if the parties so agree of record, such questions shall be certified to the next term of the law court to be entered on the docket thereof and argued and determined according to the rules of procedure in said court. The result in either case shall be certified by the clerk of the law court to the clerk of the commission; the prevailing party to recover costs.

Appeal or exceptions do not stay law.

Section 54. While questions of law are pending on exceptions to a ruling of the commission, as provided in section fifty-three, no injunction shall issue suspending or staying any order of the commission and said exceptions shall not excuse any person or corporation from complying with and obeying any order or decision, or any requirement of any order or decision of the commission or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the commission may order and direct.

Commission may alter or amend orders.

Section 55. The commission may at any time upon notice to the public utility and after opportunity to be heard as provided in section forty-three, rescind, alter or amend any order fixing any rate or rates, tolls, charges or schedules or any other order made by the commission, and certified copies of the same shall be served and take effect as herein provided for original orders.

Burden of proof.

Section 56. In all trials, actions and proceedings arising under the provisions of this act or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to the commission or seeking to set aside any determination, requirement, direction or order of said commission complained of as unreasonable, unjust or unlawful as the case may be. And in all original proceedings before said commission where an increase in rates, tolls, charges or schedules or joint rate or rates is complained of, the burden of proof shall be upon the public utility to show that such increase is just and reasonable.

Practice and rules of evidence.

Section 57. In all actions and proceedings arising under this act all processes shall be served and the practice and rules of evidence shall be the same as in civil actions in the supreme judicial court except as otherwise herein provided. Every sheriff or other officer empowered to execute civil processes may execute any process issued under the provisions of this

—service of process.

act and shall receive such compensation therefor as may be prescribed by law for similar service. CHAP. 129

Section 58. No person shall be excused from testifying or from producing books, accounts and papers in any proceeding based on or growing out of the provisions of this act on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or to subject him to a penalty or forfeiture; and no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified or produced any documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for perjury.

Witness not excused from testifying.

Section 59. Upon application of any person and upon payment therefor as the commission may by rule provide, the commission shall furnish certified copies under the seal of the commission of any order made by it, which shall be evidence of the facts stated therein.

Certified copies of orders.

Section 60. Whenever the commission shall deem it necessary in order to prevent injury to the business of any public utility or to the interest of the people, or in case of any emergency which the commission may adjudge to exist, it shall have power, temporarily, to alter, amend or, with the consent of the public utility concerned, suspend any existing rates, schedules or orders relating to or affecting any public utility. Such rates so made by the commission shall apply to one or more of the public utilities in this state or to any portion thereof as may be directed by the commission, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commission.

Commission may suspend, alter or amend orders.

PENALTIES.

Section 61. Every public utility, corporation or person failing to observe, obey or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or portion thereof, of the commission or of any commissioner shall be in contempt of the commission and shall be punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in this act, but shall be cumulative and in addition to such other remedy or remedies.

Contempt, how punished.

Section 62. If any public utility shall do or cause to be done or permit to be done any matter, act or thing in this act pro-

Utility liable in civil action.

CHAPTER 129 prohibited or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, such public utility shall be liable in damages to the person, association or corporation injured thereby; provided that any recovery as in this section provided, shall in no manner affect a recovery by the state of the penalty prescribed for such violation.

Failure or refusal to obey orders, penalty.

—refusal to allow investigation, penalty.

Section 63. Any officer, agent or employee of any public utility who shall wilfully fail or refuse to fill out and return any blanks required by this act, or shall wilfully fail or refuse to answer any question therein propounded, or shall knowingly or wilfully give a false answer to any such question, or shall wilfully evade the answer to any question where the fact inquired of is within his knowledge, or who shall upon proper demand, wilfully fail or refuse to exhibit to the commission or to any commissioner or to any person authorized to examine the same, any book, paper, account, record or memorandum of such public utility which is in his possession or under his control, or who shall wilfully fail properly to use and keep his system of accounting or any part thereof as prescribed by the commission or who shall wilfully refuse to do any act or thing in connection with such system of accounting when and as directed by the commission, shall upon conviction thereof be punished by a fine not exceeding one thousand dollars for each offense. And a penalty of not more than one thousand dollars shall be recovered from the public utility for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of such public utility or any owner or general officer thereof.

Punishment when no penalty has been provided.

Section 64. If any public utility shall wilfully violate any provision of this act or shall do any act herein prohibited or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided or shall fail or refuse to obey any lawful requirement or order made by the commission, for any such violation, failure or refusal such public utility shall forfeit and pay into the state treasury not more than one thousand dollars for each offense to be recovered in an action on the case in the name of the state. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility acting within the scope of his employment shall in every case be deemed to be the act, omission or failure of such public utility.

Each day's violation of order, a distinct offense.

Section 65. Every day during which any public utility or any officer, agent or employee thereof shall wilfully fail to observe or comply with any order of the commission or to per-

form any order of the commission or to perform any duty enjoined by this act shall constitute a separate and distinct offense.

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Section 66. Any director or officer of any public utility who shall directly or indirectly issue or cause to be issued any stocks, bonds, notes or other evidences of indebtedness contrary to the provisions of this act, or who shall apply the proceeds from the sale thereof to any other purpose than that specified in the order of the commission, as herein provided, shall, upon conviction thereof, be imprisoned in the state prison for not less than one year nor more than ten years.

Penalty for misappropriation of proceeds of sale of stocks, etc.

Section 67. Any officer, owner or agent of any public utility who shall knowingly or wilfully make any false statement to secure the issue of any stock, bond or other evidence of indebtedness, or who shall by false statement knowingly or wilfully made procure of the commission the making of the order herein provided, or issue with knowledge of such fraud, negotiate or cause to be negotiated any such stock, bond, note or other evidence of indebtedness in violation of this act, shall, upon conviction thereof, be fined not less than five hundred dollars or be imprisoned in the state prison for not less than one year nor more than ten years or both.

False statement.

Section 68. A substantial compliance with the requirements of this act shall be sufficient to give effect to all rules, orders, acts and regulations of the commission and they shall not be declared inoperative, illegal or void for any omission of a technical or immaterial nature in respect thereto. This act shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty or forfeiture which may have arisen or which may hereafter arise under any law of this state.

Substantial compliance with this act sufficient.

—this act no waiver of action.

Section 69. No public utility shall apply to the legislature to grant it any right, privilege or immunity which the public utility commission has power to grant to said utility until said utility shall first have exhausted its rights in that behalf before said commission, and in making such application to the legislature said utility shall make a statement in writing, which shall accompany the proposed legislation, that it has applied to said commission for the right, privilege or immunity requested and that said commission has denied its application.

Utility to first apply to commission for rights.

—what application to legislature shall contain.

Section 70. This act shall take effect on the first day of July, nineteen hundred and thirteen, or as soon thereafter as the constitution allows, so far as to authorize the appointment of the members of the commission, the clerk and the assistant clerk and to authorize the commissioners to qualify, organize, formulate rules, procure supplies, clerical and other assistants

When this act shall take effect.

CHAP. 130 and data necessary for the commission immediately to enter upon the performance of its duties. All other provisions of this act shall take effect on the first day of September, nineteen hundred and thirteen. The appointment of the members of the commission before said first day of September shall not be construed as an abolishment of the present board of railroad commissioners or of the state water storage commission and their duties shall not in any manner be abridged until this act is in full force.

REPEALS.

Board of R. R. com'rs and office of R. R. com'rs abolished.

—pending proceedings transferred to public utilities commission.

—commission shall have maps, etc., of R. R. com'rs.

Inconsistent acts repealed.

Section 71. The office of railroad commissioner and the boards created and known as railroad commissioners and state water storage commission are hereby abolished and the tenure of office of all officers and clerks connected with said boards is hereby terminated. All powers now vested in said boards together with all the duties and privileges now imposed or conferred upon said boards by and under existing laws are hereby imposed and conferred upon the Public Utilities Commission. All proceedings pending before the railroad commissioners or before the state water storage commission at the time this act takes effect shall be transferred to the docket of the Public Utilities Commission and be reheard or decided by it as justice may require. All existing decisions, orders and decrees of the railroad commissioners in force when this act takes effect shall continue until modified or reversed by the Public Utilities Commission. Said commission shall have custody and control of all records, maps and papers pertaining to the offices of the railroad commissioners and the state water storage commission.

Section 72. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 27, 1913.

Chapter 130.

An Act to Establish a State Highway Commission and to Provide for an Issue of State Highway Bonds.

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

Objects of this act.

Section 1. The objects of this act are to establish a state highway commission; to provide for an interlocking system of state highways; to furnish state aid for important county and town highways; to provide for the continuous maintenance of all highways to the improvement of which the state has con-