

1 IN THE SENATE

BY THE COMMITTEE ON COMMERCE
AND LABOR

2 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 54

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to create the Alaska Public Service
7 Commission; defining its authority and duties
8 and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 Section 1. SHORT TITLE. This Act shall be known and may be
11 cited as the "Alaska Public Service Commission Act."

12 Sec. 2. PUBLIC SERVICE COMMISSION: MEMBERSHIP, QUALIFICATIONS
13 AND COMPENSATION. There is hereby created within the Department of
14 Commerce the Alaska Public Service Commission, which shall consist
15 of three members to be appointed by the governor and confirmed by
16 the legislature in joint session assembled. The term of office of
17 each such member shall be six years, or until his successor is ap-
18 pointed and qualifies; provided, however, that the governor shall
19 designate which, among his initial appointees, shall serve, re-
20 spectively, for terms of two years, four years and six years, it
21 being the intent hereof that terms of commissioners be staggered to
22 insure continuity of experience on the commission. Members appointed
23 to the commission shall be qualified by training or experience to
24 discharge their duties as herein provided and the governor, in mak-
25 ing his appointments, shall recognize the principle of area repre-
26 sentation. No member of the commission, nor any employee or agent
27 thereof, shall have any official or professional relation or con-
28 nection with, or hold any stock or securities or have any pecuniary
29 interest in any business or agency subject to regulation hereunder;

1 provided, that membership in a cooperative association shall not be
2 considered a "pecuniary interest" within the meaning of this section.
3 The Governor shall designate one member of the commission to serve
4 as chairman. The commission shall be under the general adminis-
5 trative supervision of the Commissioner of Commerce and the latter
6 shall appoint the executive director of the commission shall es-
7 tablish such offices within the state as may be necessary to the
8 proper discharge of its duties. Members of the commission shall be
9 compensated for time spent in the discharge of their duties and for
10 their necessary travel and other expenses as provided by law. Each
11 member of the commission shall take and subscribe to the oath
12 prescribed for principal officers of the state.

13 Sec. 3. DEFINITIONS. In this Act:

14 (1) "Public utility" or "utility" means and embraces
15 every corporation, whether municipal, public, cooperative or other-
16 wise, company, individual, or association of individuals, their
17 lessees, trustees, or receivers appointed by any court having juris-
18 diction in the premises, that now or hereafter may own, operate,
19 manage or control any plant or system for the generation, trans-
20 mission or distribution of electric energy and power, for the fur-
21 nishing of telephone or telegraph communications, for the production,
22 transmission or distribution of heat, natural or manufactured gas,
23 oil or other petroleum products, or water, or for the furnishing of
24 community sewer services, and the plant and other facilities uti-
25 lized for any of the foregoing purposes; provided, this Act shall
26 not apply to the purveyor of water or oil or other petroleum prod-
27 ucts by tank, wagon or similar conveyance, to any public utility
28 which does a gross annual business of less than \$100,000.00 nor to
29 a municipally-owned and operated water or sewer utility. Appli-

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1 cation of this Act to electric, telegraphic, and telephonic utili-
2 ties shall be held in abeyance pending adoption by the legislature
3 of specific legislation pursuant to the submission of a report and
4 recommendation on the subject by the commission to the second regu-
5 lar session of the First State Legislature in January, 1960. This
6 Act shall not apply to the owner or owners or operator or manager of,
7 nor shall it apply to, any pipe line, plant, system or equipment
8 used primarily for gathering, collecting, transporting or shipping
9 crude oil, natural gas, condensate or other petroleum substances or
10 products produced by or belonging to such owner or owners or such
11 operator or manager.

12 (2) "Rate" means and includes every individual or joint
13 rate, toll, charge, rental or other compensation of any utility or
14 any two or more individual or joint rates, tolls, charges, rental or
15 other compensation of any utility or any schedule or tariff thereon.

16 (3) The term "service" is used in its broadest and most
17 inclusive sense and includes not only the use or accommodation af-
18 farded consumers or patrons, but also any product or commodity fur-
19 nished by any such utility and the plant, equipment, apparatus,
20 appliances, property and facility employed by any such utility in
21 performing or providing any service, or in furnishing any product or
22 commodity and devoted to the purposes in which such utility is en-
23 gaged and to the use and accommodation of the public.

24 (4) The term "commission" means the Alaska Public Service
25 Commission herein created.

26 Sec. 4. COUNSEL FOR COMMISSION. The Attorney General shall
27 be the legal counsel for the commission. He shall advise the com-
28 mission in legal matters arising in the discharge of its duties and
29 shall represent the commission in all suits to which it is a party.

1 Sec. 5. COMMISSION RULES, REGULATIONS, HEARINGS AND ORDERS.
2 The commission shall impartially receive and consider the evidence
3 presented to it and shall make its orders in each cause upon the
4 facts impartially found by it. All evidence shall be offered to the
5 commission on the part of the respective parties to, or appearing in,
6 the proceedings and not in the name of or on behalf of the commission
7 and the commission shall be neither the proponent or opponent on any
8 issue decided by it. If in any proceeding the public interest is not
9 in the opinion of the commission, adequately represented by counsel,
10 it shall be the duty of the Attorney General, upon request of the
11 commission, to represent the public interest.

12 Sec. 6. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. The
13 commission shall conform to the provisions of the Administrative Pro-
14 cedure Act and all regulations shall be adopted and published and all
15 investigations and hearings shall be initiated, made and held as pro-
16 vided therein.

17 Sec. 7. STUDY OF LAWS AND PRACTICES OF PUBLIC UTILITIES:
18 REPORT AND RECOMMENDATIONS TO GOVERNOR AND LEGISLATURE. In addition
19 to all other powers and duties conferred in this Act upon the commis-
20 sion, said commission shall have the following further additional
21 duties: To make a careful study of all laws with the administration
22 of which it is charged and of the practices of public utilities and
23 to make a special written report thereon and of any recommendations
24 it may have thereon, and shall file copies thereof, both with the
25 Speaker of the House of Representatives and the President of the Sen-
26 ate at the opening of the Second Regular Session of the Legislature
27 of Alaska, and shall also file a copy of such report with the governor
28 not less than ten days prior to the opening of said session of the
29 legislature. To assist the commission in making such study, it is

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1 hereby authorized to prepare and submit questionnaires to
2 public utilities calling for relevant information and it
3 may hold hearings for that purpose and may issue subpoenas to
4 witnesses commanding their attendance at such hearings, and said
5 commission is hereby authorized to examine or cause to be ex-
6 amined, the books and records of any public utility in connec-
7 tion with such study.

8 Sec. 8. EMPLOYMENT AND COMPENSATION OF COMMISSION PERSONNEL.

9 The commission is authorized to employ such engineers, examiners,
10 hearing officers, experts, clerks, accountants and other assis-
11 tants as it may deem necessary and such rates of compensation as
12 it may determine, subject, however, to the personnel policies
13 and regulations established or issued by the Commissioner of
14 Administration pursuant to the State Organization Act of 1959.

15 Sec. 9. STANDARDS OF SERVICE, RATES AND SERVICE AREAS.

16 Every public utility is required to furnish and maintain reason-
17 ably adequate service and facilities. The charge made by any
18 public utility for any service rendered or to be rendered either
19 directly or in connection therewith, shall be reasonable and
20 just, and every unjust or unreasonable charge for such service
21 is prohibited and declared unlawful. The commission, in order
22 to expedite the determination of rate questions, or to avoid
23 unnecessary or unreasonable expense, or to avoid discrimination
24 in rates between classes of customers, or whenever, in the
25 judgment of the commission, public interest so requires, may for
26 rate making and accounting purposes, or either of them, consider
27 a single municipality and/or two or more municipalities and/or
28 the intervening rural territory as a regional unit where the
29 same utility serves such region, and may within such region

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1 prescribe uniform rates for consumers or patrons of the same
2 class; provided, however, that the commission may authorize
3 different rates for consumers or patrons of the same class
4 served by such utility to reflect a substantial difference in
5 the cost of providing such service.

6 Where two or more public utilities furnish electric, tele-
7 phone, gas, water or sewer service in the same area, it shall
8 be the duty of the commission to determine and delineate the
9 service area of each such utility.

10 Nothing in this Act contained shall authorize any public
11 utility during the remainder of the term of any grant or fran-
12 chise under which it may be acting at the time this Act takes
13 effect to charge for any service, in such grant or franchise
14 contracted, exceeding the maximum rate or rates therefor, if
15 any, that may be fixed in such grant or franchise.

16 Sec.10. JOINT USE AND INTERCONNECTION OF FACILITIES.

17 (1) Every public utility, and every municipality, and
18 every person, association or corporation having tracks, conduits,
19 subways, poles or other equipment on, over or under any street
20 or highway shall, for a reasonable compensation, permit the use
21 of the same by any other public utility or by a municipality
22 owning or operating a utility, whenever public convenience and
23 necessity require such use and such use will not result in sub-
24 stantial injury to the owner or owners of such equipment, nor
25 in any substantial detriment to the service to be rendered to
26 the customers or consumers of such owner or owners; provided,
27 however, that the cost of any modifications or additions necessary
28 to such joint use shall be at the expense of the public utility
29 requesting the use of such facilities; and, provided further,

1 nothing herein shall be interpreted to authorize a public utility
2 to contract or share the use of the facilities of another public
3 utility offering the same service when the purpose of such joint
4 use is to violate the service area of the utility owning such
5 facilities.

6 Every public utility for the conveyance of telephone
7 messages shall permit a physical connection or connections to
8 be made and telephone service to be furnished between any tele-
9 phone systems operated by it and the telephone toll line operated
10 by another such public utility, or between its toll line and
11 the toll line of another such public utility, whenever public
12 convenience and necessity require such physical connection or
13 connections and such physical connection or connections will
14 not result in substantial injury to the owner, or owners, or
15 other users of the facilities of such public utilities, nor in
16 any substantial detriment to the service to be rendered by such
17 public utilities. The term "physical connection" as used herein
18 shall mean such number of trunk lines or complete wire circuits
19 and connections as may be required to furnish reasonably adequate
20 telephone service between such public utilities.

21 If any prospective consumers or patrons of any public
22 utility for the generation, transmission, delivery or furnishing
23 of electric energy and power situated within one mile of the
24 distribution facilities of such utility shall construct and
25 install the necessary facilities in compliance with plans and
26 specifications furnished by such utility, such utility shall permit
27 the necessary physical connection or connections to be made and
28 service to be furnished to the person or persons who have con-
29 structed and installed such facilities; provided, however, that

1 no such connection need be permitted where it would result in
2 substantial detriment to other consumers or customers of such
3 utility. Nothing herein shall be interpreted to require a
4 utility to assume maintenance or other responsibility for faci-
5 lities to which it does not have title.

6 (2) In case of failure to agree upon such use or the
7 conditions or compensation for such use, or in case of failure
8 to agree upon such physical connection or connections, or the
9 terms and conditions upon which the same shall be made, any
10 public utility or any person, association or corporation inter-
11 ested may apply to the commission and if, after investigation,
12 the commission shall ascertain that public convenience and
13 necessity require such use or such physical connections, and
14 that such use or such physical connection or connections would
15 not result in substantial injury to the owner or other users of
16 such equipment or of the facilities of such public utilities,
17 nor in any substantial detriment to the service to be rendered
18 by such owner or other public utilities or other users of such
19 equipment or facilities, it shall by order direct that such use
20 be permitted and prescribe reasonable conditions and compensa-
21 tions for such joint use and that such physical connection or
22 connections be made and determine how and within what time such
23 connection or connections shall be made, and by whom the expense
24 of making and maintaining such connection or connections shall
25 be paid.

26 (3) Such use so ordered shall be permitted and such
27 physical connection or connections so ordered shall be made and
28 such conditions and compensation so prescribed for such use,
29 and such terms and conditions upon which such physical connection

1 or connections shall be made, as so determined, shall be lawful
2 conditions and compensations for such use, and the lawful terms
3 and conditions upon which such physical connection or connec-
4 tions shall be made, to be observed, followed and paid, subject
5 to recourse to the courts upon the complaint of any interested
6 party.

7 Sec. 11. VALUATION OF ASSETS: CONSIDERATIONS: JUDICIAL
8 REVIEW.

9 (1) The commission shall value all property of every
10 public utility actually used and useful for the convenience of
11 the public at its fair value, giving such consideration as it
12 deems appropriate in each case to all bases of valuation which
13 may be presented or which the commission is authorized to con-
14 sider by the following provisions of this section. As one of
15 the elements in such valuation, the commission shall give weight
16 to the reasonable cost of bringing the property to its then
17 state of efficiency. In making such valuation, the commission
18 may avail itself of any information in possession of any state
19 or local taxing authority.

20 (2) In making such valuation, no account shall be
21 taken of presumptive value resting on natural resources indepen-
22 dent of any structures in relation thereto, all natural resources
23 being considered public property. No account shall be taken
24 of good will or presumptive values growing out of the operation
25 of any utility as a going concern. No account shall be taken
26 of construction costs unless such costs were actually incurred
27 and such construction costs were paid as part of the cost enter-
28 ing into the construction of the utility. All public utility
29 valuations shall be based upon tangible property; that is, such

1 property as has value by reason of construction costs, either
2 in materials purchased or in assembling of materials into struc-
3 tures by the labor or of workers and the services of superin-
4 tendents, including engineers, legal and court costs, accounting
5 systems and transportation costs, and also including insurance
6 and interest charges on capital accounts during the construction
7 period. As an element in determining value, the commission may
8 also take into account reproduction costs at current prices,
9 less depreciation, based on the items set forth in the last
10 sentence hereof and shall not include good will, going value,
11 or natural resources.

12 Pending any judicial review as provided in the Admin-
13 istrative Procedure Act, the utility affected by an order or
14 judgment of the commission shall have the right to collect the
15 rate as fixed by said order or judgment or at the old rate,
16 whichever is higher in amount, and shall refund the same to the
17 consumer if such difference be not sustained finally.

18 Sec. 12. EVALUATION PROCEDURE. The book value of a public
19 utility shall be the prima facie value of such utility for the
20 purpose of establishing its rates and charges for services. If
21 complaint is made to the commission that such book value is
22 not reasonable, the commission may take such action as may be
23 necessary, including the holding of public hearings, to determine
24 the facts and to ascertain the true value of such utility.
25 Within five days after the completion of a public hearing for the
26 purpose of establishing the valuation of a public utility, the
27 commission shall by order determine the costs of such proceeding,
28 the amount of such costs to be paid by the utility and the time
29 within which such payment must be made.

1 Sec. 13. REVALUATION. The commission may revalue the
2 property of a public utility at any time at the utility's request,
3 or, after issue of an order to show cause why such property should
4 not be revalued and duly considering the response thereto, if
5 any, upon its own initiative.

6 Sec. 14. SYSTEM OF ACCOUNTS AND REPORTS. Every public
7 utility shall use and follow a generally recognized system of
8 public utility accounting. If any public utility has not adopted
9 a generally recognized system of public utility accounting, the
10 commission shall prescribe the accounting system which such uti-
11 lity shall adopt. Each public utility shall submit such reports
12 as the commission may require and on forms to be supplied by
13 the commission.

14 Sec. 15. SUBSIDIARY BUSINESS ACCOUNTS. Every public
15 utility engaged, directly or indirectly, in any other or sub-
16 sidiary business, shall keep separate accounts relating to such
17 subsidiary business. Except as the commission may otherwise
18 provide, no property, expense or revenue utilized in or derived
19 from such subsidiary business shall be considered in establish-
20 ing the rates and charges of such utility for its public ser-
21 vices.

22 Sec. 16. ACCOUNTING PERIOD. Public utilities may, at
23 their option, maintain their accounts on a calendar year or fiscal
24 year. Not more than 75 days after the close of its accounting
25 period, the utility shall file with the commission a balance
26 sheet, verified by the owner or an officer of the utility, and
27 such other information as the commission may by regulation require.

28 Sec. 17. AUDIT OF ACCOUNTS. An audit made by a certified
29 public accountant, or by any person approved by the commission,

1 shall be accepted by the commission as prima facie correct.

2 Sec. 18. AGENTS OF COMMISSION. The agents, accountants,
3 hearing officers and other examiners employed by the commission
4 shall have authority, under direction of the commission, to in-
5 spect and examine any and all books, accounts, papers, records
6 and memoranda kept by a public utility.

7 Sec. 19. DEPRECIATION RATES AND ACCOUNTS. Every public
8 utility shall carry a separate, proper and adequate depreciation
9 account whenever the commission, after investigation, shall
10 determine that such depreciation account reasonably can be re-
11 quired. The commission, from time to time, shall ascertain and
12 determine the proper and adequate rates of depreciation of the
13 several classes of property of each public utility; provided,
14 that rates of depreciation and depreciation accounts prescribed
15 by, and maintained pursuant to, regulations of a federal agency
16 or the terms of a bond ordinance shall be acceptable to the
17 commission. The commission shall provide for depreciation in
18 fixing the rates, tolls and charges to be paid for the services
19 of a public utility.

20 Sec. 20. DEPRECIATION FUND. The commission shall pres-
21 cribe by regulation for the use and investment of the depreciation
22 fund of all public utilities required to maintain such fund
23 pursuant to Section 18 herein; provided, that the use and in-
24 vestment of the depreciation fund as prescribed by, and maintained
25 pursuant to, regulations of a federal agency or the terms of a
26 bond ordinance shall be acceptable to the commission.

27 Sec. 21. ADDITIONS AND EXPANSIONS OF PUBLIC UTILITIES.
28 Any additional construction or improvements which may be the basis
29 of a rate adjustment shall be reported to the commission. If

1 such construction or improvements are found to be reasonably
2 necessary by the commission, or if the report thereof is accom-
3 panied by the certification of a registered engineer that such
4 construction is necessary to provide adequate public service,
5 the cost of such construction or improvements shall be considered
6 in making evaluations for rate purposes; otherwise, the cost of
7 such construction or improvements shall be disregarded for rate
8 purposes.

9 Sec. 22. DISTRIBUTION OF SURPLUS, PROFITS AND OPERATING
10 MARGINS. Surpluses, profits and operating margins of public
11 utilities shall be distributed pursuant to the by-laws of cor-
12 porate and cooperative utilities and ordinances controlling
13 municipal utilities; provided, the commission, on complaint,
14 may investigate all distribution of surplus, profits and opera-
15 ting margins and may make such regulations in connection there-
16 with as may to it seem just and reasonable. The right to revoke
17 its approval of any arrangement for the distribution of surplus,
18 profits or operating margins, and the right to amend or rescind
19 all orders relative thereto after public hearing, are reserved
20 and vested in the commission, notwithstanding any agreement
21 or arrangement between utilities and their owners and patrons.

22 Sec. 23. STANDARD UNITS AND EXPENSES PER UNIT. The com-
23 mission shall ascertain and prescribe for each kind of public
24 utility suitable and convenient standard commercial units of
25 product or service, which shall be the lawful units for purposes
26 of this Act. Each public utility shall furnish to the commission,
27 in such form and at such time as the commission shall require,
28 such accounts, reports and information as the commission may
29 require and based upon the prescribed units.

1 Sec. 24. REPORTS OF COMMISSION. The commission shall
2 publish annual reports showing its proceedings and showing in
3 tabular form the details per unit as provided in Section 22,
4 for all the public utilities of each kind in the state and
5 such monthly or occasional reports as it may deem advisable.
6 The commission shall also publish in its annual reports the
7 value of all the property actually used and useful for the con-
8 venience of the public, and the value of the physical property
9 actually used and useful for the convenience of the public, of
10 every public utility the value of whose property has been as-
11 certained by it.

12 Sec. 25. BOOKS AND RECORDS OPEN TO INSPECTIONS. All facts
13 and information in the possession of the commission shall be
14 public and all reports, files, books, accounts, papers and mem-
15 oranda of every nature whatsoever in their possession, shall be
16 open to inspection by the public at all reasonable times, except
17 facts developed by the commission shall be withheld until final
18 determination of the matter at issue, or for ninety days, which-
19 ever is the shorter period.

20 Sec. 26. STANDARDS FOR MEASUREMENT. The commission shall
21 fix by regulation adequate and serviceable standards for the
22 measurement of quality, pressure, voltage or other conditions,
23 including, but not limited to, quantity and quality of service
24 pertaining to the supply of the product or service rendered
25 by any public utility and prescribe reasonable regulations for
26 examinations and testing of such product or service and for
27 the measurement thereof; provided, that the commission shall con-
28 form to the standard practices of the industry or activity
29 regulated.

1 Sec. 27. TESTING OF METER STANDARDS. The commission shall
2 provide by regulation for the annual testing and certification
3 of meter standards by laboratories acceptable to the commission.
4 The commission shall further provide by regulation for the taking
5 of appeals to the commission from the findings of any utility
6 which tested its own meters or appliances for measurement.

7 Sec. 28. TESTING OF APPLIANCES. The commission shall pro-
8 vide for the examination and testing of any and all appliances
9 used for the measuring of any product or service of a public
10 utility and is hereby authorized to purchase such equipment,
11 apparatus and standards as may be required for such purpose;
12 provided that, in the interest of economy, the commissioner of
13 commerce may assign the examination and testing function herein
14 contemplated to the Division of Weights and Measures. Any con-
15 sumer or user may have any such equipment or apparatus upon the
16 payment of a reasonable fee to be established by the commission.
17 The commission shall likewise establish by regulation allowable
18 tolerances with respect to the functioning or operation of any
19 such equipment or apparatus. If the measuring equipment or
20 apparatus of the utility performs within such tolerances, the
21 person requesting such tests shall bear the costs thereof;
22 otherwise, such costs shall be paid by the utility concerned and
23 any fee paid by the person requesting such test shall be re-
24 funded to him by such utility.

25 Sec. 29. RIGHT TO ENTER PREMISES. The commission, its
26 agents, hearing officers, or examiners shall have the right to
27 enter upon any premises occupied by any public utility for the
28 purpose of making the examinations and tests provided in this
29 Act and to set up and use on such premises any apparatus and

1 appliances and occupy reasonable space therefor.

2 Sec. 30. SCHEDULE OF RATES. Every public utility shall
3 file with the commission, within a time fixed by the commission,
4 schedules or joint schedules showing all rates, tolls and charges
5 and the regulations relating thereto, which it has established
6 for service within the state, or for any service in connection
7 therewith, or for services performed by any public utility con-
8 trolled or operated by it. If no objection to such schedule
9 is made to the commission within thirty days after such filing,
10 such schedule shall be considered as having been approved by
11 the commission. Special arrangements affecting rates and charges
12 shall likewise be filed with the commission and, if no objection
13 to such special arrangements is made to the commission within
14 thirty days, such arrangements shall likewise be deemed approved
15 by the commission. In establishing its schedule of rates and
16 charges, the public utility may distinguish between rates at
17 which its product or service is sold to its customers or con-
18 sumers and the charges made for services incidental thereto:
19 the former shall be determined computed as a return on invest-
20 ment; the latter shall bear a reasonable relation to the cost
21 of providing such services.

22 Sec. 31. PUBLICATION OF RATES. A copy of so much of the
23 schedules and regulations provided in Section 29 above as the
24 commission may deem necessary for public use shall be printed
25 in plain type and kept on file at the principal office of the
26 utility and at each station or office where payments for the
27 utility's services are accepted and such printed schedules and
28 regulations shall be readily accessible to, and subject to in-
29 spection by, the general public.

1 Sec. 32. CHANGE OF RATES OR CHARGES. No change shall be
2 made in any schedule of rates and charges, including schedules
3 of joint rates, except upon thirty days notice to the commission.
4 If no objection to such changes are filed within thirty days,
5 such changes shall be deemed approved; if objection is made,
6 the commission shall proceed as provided by regulation to hear
7 the objection and to approve or disapprove such changes. All
8 such changes shall be plainly indicated upon existing schedules
9 or by filing new schedules in lieu thereof thirty days prior to
10 the time the same are to take effect; provided, that the
11 commission, upon application of any public utility, may prescribe
12 a less time within which a reduction may be made.

13 Sec. 33. PUBLICATION OF REVISED SCHEDULES. Copies of
14 revised schedules shall be filed at the principal office of the
15 utility concerned and in every station or office where payment
16 for such utility's services are accepted ten days prior to the
17 time the same are to take effect, unless the commission shall
18 prescribe a less time.

19 Sec. 34. RATES VARYING FROM SCHEDULE UNLAWFUL. It shall
20 be unlawful for any public utility to charge, demand, collect
21 or receive a greater or less compensation for any commodity or
22 service furnished by it within the state, or for any service
23 in connection therewith, than is specified in its printed schedules,
24 including schedules of joint rates, as may at the time be in
25 force, or to demand, collect or receive any tolls or charges not
26 specified in such schedule; provided, that nothing herein shall
27 be interpreted to preclude a public utility from charging its
28 patrons or consumers not to exceed the actual cost for any
29 extraordinary service provided, including, without limitation,

1 the repair of damages to its facilities caused by such patron
2 or consumer. The rates, tolls and charges named in such schedules
3 shall be the lawful rates, tolls and charges unless the same are
4 changed as provided in this Act.

5 Sec. 35. CLASSES OF SERVICE. The commission shall provide
6 for a comprehensive classification of services for each public
7 utility and such classification shall take into account the
8 quantity used, the time when used, the purpose for which used
9 and other reasonable consideration. Each public utility shall
10 conform its schedules of rates, tolls and charges to such
11 classification.

12 Sec. 36. ADOPTION OF REGULATIONS. The commission shall
13 have power to adopt reasonable and proper rules and regulations
14 relative to all inspections, tests, audits and investigations,
15 and to adopt and publish reasonable and proper rules to govern
16 its proceedings, and to regulate the mode and manner of all in-
17 vestigations of public utilities and other parties before it;
18 provided, that the rule-making power shall be exercised pursuant
19 to the Administrative Procedure Act.

20 Sec. 37. MANAGEMENT OF BUSINESS. The commission may, upon
21 complaint, examine the management of any public utility, in-
22 cluding, without limitation, staffing patterns and wage and
23 salary scales, and the commission shall have the authority to
24 order the correction of any abuses found which adversely affect
25 the cost of the product or service of such public utility.

26 Sec. 38. RIGHT TO EXAMINE RECORDS AND OFFICERS OR EM-
27 PLOYEES. The commission, or any commissioner, or any person
28 or persons employed by the commission for that purpose, when
29 authorized by the commission, shall upon demand have the right

1 to inspect the books, accounts, papers, records and memoranda
2 of any public utility and to examine, under oath, any officer,
3 agent or employee of such public utility in relation to its
4 business and affairs. Any person who shall make such demand
5 shall produce his authority therefor.

6 Sec. 39. PRODUCTION OF BOOKS AND RECORDS: SUBPOENA. The
7 commission may require, by order or subpoena to be served on any
8 public utility in the same manner that a summons is served in
9 a civil action in the superior court, the production, at the
10 office of the utility concerned or at the place where a hearing
11 is held, at such reasonable time as it may designate, of any
12 books, accounts, papers, or records kept by said public utility
13 in any office or place within or without the state, or verified
14 copies in lieu thereof, if the commission shall so order, in
15 order that an examination thereof may be made by the commission
16 or under its direction. Any public utility failing or refusing,
17 after reasonable written notice, to comply with any such order
18 or subpoena shall, for each day it shall so fail or refuse,
19 forfeit and pay into the state treasury a sum of not less than
20 fifty dollars (\$50.00).

21 Sec. 40. HEARING OFFICERS AND AGENTS. For the purpose of
22 making any investigation with regard to any public utility, the
23 commission shall have power to appoint, by an order in writing,
24 a hearing officer or agent whose duties shall be prescribed
25 in such order. In the discharge of his duties, such hearing
26 officer or agent shall have such investigative powers as are
27 specifically delegated to him by the commission. The commission
28 may conduct any number of such investigations contemporaneously
29 through different hearing officers or agents; and may delegate

1 to such hearing officers or agents the taking of all testimony
2 bearing upon any investigation or hearing. The decisions and
3 determinations of the commission shall be based upon its examina-
4 tion of all testimony and records. The recommendations made by
5 such hearing officers or agents shall be advisory only and
6 shall not preclude the taking of further testimony if the
7 commission so orders, nor further investigation.

8 Sec. 41. SUBMISSION OF INFORMATION. Every public utility
9 shall furnish to the commission all information required by it
10 to carry into effect the provisions of this Act, and shall
11 make specific answers to all questions submitted by the com-
12 mission.

13 Sec. 42. INVESTIGATION AND HEARING OF COMPLAINTS. Com-
14 plaints against public utilities shall first be made to such
15 utilities and pursuant to such reasonable procedures as the
16 utilities may by regulation prescribe. If the person aggrieved
17 is not satisfied with the disposition of his complaint, he may
18 bring such complaint to the commission. Appeals to the com-
19 mission need not be in any particular form, but appeals must
20 be in writing, must state that the complainant has exhausted
21 his administrative remedies as provided by the rules of the
22 public utility concerned, and shall be verified. The commission
23 may prescribe a filing fee for such complaints. The commission
24 shall proceed, with or without notice, to make such investi-
25 gation of complaints as it may deem necessary or convenient.
26 No order affecting rates, tolls, charges, schedules, regulations,
27 measurements, practices or act complained of shall be entered
28 by the commission without giving the public utility an opportunity
29 to be heard, including, if requested by such utility, a formal

1 public hearing; provided, all hearings hereunder shall be subject
2 to the Administrative Procedure Act.

3 Sec. 43. SEPARATE HEARING. The commission may, in its
4 discretion, when complaint is made of more than one rate or
5 charge, order separate hearings thereon, and may consider and
6 determine the several matters complained of separately and at
7 such times as it may prescribe. No complaint shall at any time
8 be dismissed because of the absence of direct damage to the
9 complainant.

10 Sec. 44. COMPLAINT BY PUBLIC UTILITY. Any public utility
11 may make complaint as to any matter affecting its own rates
12 or service with like effect as any consumer or user.

13 Sec. 45. ORDERS RELATING TO RATES. Whenever, upon an
14 investigation, the commission shall find any rates, tolls,
15 charges, schedules or joint rate or rates, to be unjust, un-
16 reasonable, insufficient or unjustly discriminatory, or to be
17 preferential or otherwise in violation of any of the provisions
18 of this Act, the commission shall determine, and by order fix
19 just and reasonable rates, tolls, charges, schedules or joint
20 rates to be imposed, observed and followed in the future in
21 lieu of those found to be unjust, unreasonable, insufficient
22 or unjustly discriminatory or preferential or otherwise in viola-
23 tion of any of the provisions of this Act.

24 Sec. 46. ORDERS RELATING TO SERVICE. Whenever, upon in-
25 vestigation made under the provisions of this Act, the commission
26 shall find any regulations, measurements, practices, acts or
27 service to be unjust, unreasonable, unsafe, insufficient, prefer-
28 ential, unjustly discriminatory or otherwise in violation of
29 any of the provisions of this Act or the intent hereof; or shall

1 find that any service is inadequate or that any service which
2 can be reasonably demanded cannot be obtained, the commission
3 shall determine and declare and by order fix just and reasonable
4 measurements, regulations, acts, practices or service to be
5 furnished, imposed, observed and followed in the future in lieu
6 of those found to be unjust, unreasonable, unsafe, insufficient,
7 preferential, unjustly discriminatory, inadequate, or otherwise
8 in violation of this Act, as the case may be, and shall make
9 such other order respecting such measurement, regulation, act,
10 practice or service as shall be just and reasonable.

11 Sec. 47. EXPENSES OF INVESTIGATION. At the conclusion of
12 any public hearing held pursuant to this Act or the Administrative
13 Procedure Act, the commission shall ascertain the costs thereof
14 and shall by order apportion such costs among the parties, in-
15 cluding the commission, as to it may seem just and proper. In
16 assessing costs, the commission shall consider ability to pay,
17 evidence of good faith, and such other factors and mitigating
18 circumstances as to it may seem relevant. The commission shall
19 determine and allow a reasonable time in which any such costs
20 shall be paid; provided, that so much of any order of the
21 commission as may increase any rate of such public utility,
22 shall not take effect until such costs are paid. All payments
23 hereunder shall be made to the commission and covered into the
24 general fund.

25 Sec. 48. RESCINDING ORDERS OF COMMISSION. The commission
26 may, at any time, upon notice to the public utility and after
27 opportunity to be heard as provided herein, rescind, alter or
28 amend any order fixing any rate or rates, tolls, charges or
29 schedules, or any other order made by the commission, and certified

1 copies of the same shall be served and take effect as herein
2 provided for original orders.

3 Sec. 49. RATES IN EFFECT PRIMA FACIE LAWFUL. All rates,
4 tolls, charges, schedules and joint rates fixed by the com-
5 mission shall be in force and be prima facie lawful, and all
6 regulations, practices and services prescribed by the commission
7 shall be in force and shall be prima facie reasonable unless
8 finally found otherwise in an action brought for that purpose
9 pursuant to the provisions of this Act.

10 Sec. 50. STATE ASSISTANCE TO MUNICIPALITIES AND PUBLIC
11 UTILITY DISTRICTS. Where general obligation or revenue bonds
12 are to be issued by any municipality or public utility district
13 within this state to finance the construction of a public
14 utility, or to provide for additions or improvements thereto,
15 the commission shall review the proposed bonding ordinance to
16 determine if such ordinance will permit such utility to operate
17 in the public interest. In the event that the commission shall
18 find that such bonding ordinance is unduly restrictive, or that
19 the rate of interest to be charged in such bonds is excessive,
20 or that such ordinance otherwise will preclude the operation of
21 such utility in the best public interest, the commission shall
22 make such recommendations or orders relating thereto as to it
23 may seem reasonable and proper, including, without limitation,
24 recommendations to the governor for legislation to authorize
25 the issuance of general obligation bonds in the name of, and
26 on the credit of, the state to finance such construction, addi-
27 tions or improvements.

28 Sec. 51. REGULATIONS HAVE EFFECT OF LAW. All rules and
29 regulations promulgated by the commission pursuant to this Act

1 and the Administrative Procedure Act shall have the force and
2 effect of law.

3 Sec. 52. SEPARABILITY CLAUSE. If any provision of this
4 Act, or the application thereof to any person or circumstance,
5 is held invalid, the remainder of this Act, and the application
6 of such provision to other persons or circumstances, shall not
7 be affected thereby.

8 Sec. 53. LOCAL CONTROL OF PUBLIC UTILITIES. Nothing herein
9 shall be interpreted to limit the power of any municipality,
10 public utility district or other local authority to regulate
11 and control, in the manner and to the extent provided by law,
12 any public utility not otherwise subject to the provisions of
13 this Act.

14 Sec. 54. EFFECTIVE DATE. This Act shall take effect
15 immediately upon its passage and approval, or upon its becoming
16 law without such approval.

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