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IN THE SENATE

BY STATE AFFAIRS COMMITTEE

SENATE BILL NO. 107

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act to create the Alaska Public Service Commission; defining its authority and duties; providing for penalties; repealing certain acts and parts of acts; and providing for an effective date."

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

CHAPTER I.

CREATION, ORGANIZATION, AUTHORITY, AND DUTIES

OF THE ALASKA PUBLIC SERVICE COMMISSION.

Section 1. PUBLIC SERVICE COMMISSION: MEMBERSHIP, QUALIFICATIONS AND COMPENSATION. There is created within the Department of Commerce the Alaska Public Service Commission which consists of three members to be appointed by the Governor and confirmed by the legislature in joint session. The term of office of each member shall be six years, or until his successor is appointed and qualifies. The governor shall designate who among the initial appointees shall serve, respectively, for terms of two years, four years and six years. One member shall be a graduate of an accredited school of law, one shall be a graduate of an accredited university with a major in engineering, and one shall be a graduate of an accredited university with a major in finance, accounting or business administration. Actual experience for a period of five years in the practice of law or in the field of

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(Amended via journal entries)

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1 engineering or in the field of finance, business administration
2 or accounting is deemed equivalent to a degree. No member of the
3 commission nor any of its employees or agents shall have any
4 official or professional relation or connection with, hold any
5 stock or securities or have any pecuniary interest in any business
6 subject to regulation under this Act. Membership in a cooperative
7 association shall not be considered a "pecuniary interest" within
8 the meaning of this section. The governor shall designate one
9 member of the commission to serve as chairman. The commission
10 shall be under the general administrative supervision of the Com-
11 missioner of Commerce and ^{delete} (the latter shall appoint) the executive
12 director of the commission ^{delete} who may be a member of the commission.
13 The commission shall establish such offices within the state as
14 may be necessary for the discharge of its duties. Members of the
15 commission shall be entitled to the per diem established by law
16 for other boards and commissions and shall be paid for their
17 necessary travel expense. Each member shall take and subscribe
18 to the oath prescribed for principal officers of the state.

19 Sec. 2. DEFINITIONS. As used in this Act unless specifi-
20 cally defined otherwise or unless the context indicates otherwise,

21 (1) "commission" means the Public Service Commission.

22 (2) "commissioner" means one of the members of the
23 commission.

24 (3) "public service company" means any public utility
25 as defined in this Act or any other business, public, private or
26 cooperative, which is subject to regulation by the commission.

27 (4) "service" is used in this Act in its broadest and
28 most inclusive sense.
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1 Sec. 3. COUNSEL FOR COMMISSION. The Attorney General shall
2 be the legal counsel for the commission. The Attorney General
3 shall also have the power to represent and appear on behalf of
4 the people of the State of Alaska in all acts and proceedings
5 involving any public service company. It shall be the duty of
6 the Attorney General to see that any public service company com-
7 plies with the law and orders of the commission.

8 Sec. 4. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT -
9 COMMISSION PROCEDURES. The commission shall comply with the pro-
10 visions of the Administrative Procedure Act for the promulgation,
11 adoption and publication of its regulations but that Act is not
12 otherwise applicable to proceedings before the commission. The
13 commission shall adopt rules of practice and procedure that shall
14 be applicable to its investigations, proceedings and hearings.
15 Such rules of practice and procedure shall be filed with the
16 Secretary of State who shall publish them as part of the Alaska
17 Administrative Code.

18 Sec. 5. EMPLOYMENT AND COMPENSATION OF COMMISSION PERSONNEL.
19 The commission is authorized to employ an executive director, a
20 director of motor transportation, a director of air commerce, and
21 such directors, engineers, examiners, hearing officers, experts,
22 clerks, accountants and other assistance it may deem necessary
23 at such rates of compensation as it may determine.

24 Sec. 6. QUORUM - HEARINGS - ACTIONS DEEMED THOSE OF THE
25 COMMISSION. A majority of the commissioners shall constitute
26 the quorum for the transaction of any business, the performance
27 of any duty, or the exercise of any power of the commission.
28 Hearings may be held at any time or place within or without the
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1 state. Any investigation or hearing which the commission has
2 power to undertake or hold may be held by any commissioner or
3 designated examiner. All findings or orders made by a commis-
4 sioner when approved and confirmed by the commission and filed
5 in its office shall be deemed the orders of the commission.
6 Members of the commission may vote upon, confirm or approve any
7 matter by mail or telegram.

8 The commission may deputize any of its directors to perform
9 in the name of the commission such of its duties as it deems
10 necessary.

11 Sec. 7 EXAMINERS - POWERS. The commission may designate
12 examiners when it deems this action necessary for its general
13 administration. The examiners shall have power to administer
14 oaths, issue subpoenas and subpoenas duces tecum, examine witnesses,
15 and receive testimony in any investigation or hearing in any
16 part of the state.

17 Sec. 8. JOINT INVESTIGATIONS - HEARINGS - ORDERS. The
18 commission may make joint or concurrent investigations, hold
19 joint or concurrent hearings, and issue joint or concurrent orders
20 in conjunction with any official, board, or commission of any
21 state or the United States. When necessary, the joint hearings
22 or investigations may be held outside the state.

23 Sec. 9. PROCEEDINGS - PUBLIC RECORDS - SEAL. All proceed-
24 ings, documents and records of the commission are public records.
25 It may adopt and use an official seal.

26 Sec. 10. SUBPENAS AND WITNESSES. a. General authority.
27 Each commissioner shall have power to administer oaths, certify
28 to all official acts, and issue subpoenas and subpoenas duces
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tecum.

b. Subpenas. Before the hearing has commenced the commission may issue subpenas and subpenas duces tecum at the request of any party in accordance with the state rules of civil procedure. After the hearing has commenced the commission or an examiner sitting alone may issue subpenas and subpenas duces tecum.

c. Witnesses from more than 100 miles. The process issued pursuant to subsection a. shall extend to all parts of the state and shall be served in accordance with the rules applicable to civil actions. No witness shall attend at a place out of the election district in which he resides unless the distance be less than 100 miles from his place of residence, except that the commission, upon affidavit of any party showing that the testimony of such witness is material and necessary, may endorse on the subpoena an order requiring the attendance of the witness.

d. Contempt. If any person in proceedings before the commission disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take oath or affirmation as a witness, refuses to be examined, or is guilty of misconduct during a hearing or so near the place thereof as to obstruct the proceeding, the commission shall certify the facts to the superior court for the division where the proceedings are held. The court shall then issue an order directing the person to appear before the court and show cause why he should not be punished as for contempt. The order and a copy of the certified statement shall be served on the person. The court shall then have jurisdiction. The same proceedings shall be had, the same penalties may be imposed and the person charged may purge himself of the contempt in the

1 same way as in the case of a person who has committed a contempt
2 in the trial of a civil action before a superior court.

3 Sec. 11. NUMBER OF WITNESSES MAY BE LIMITED. The commission
4 may ^{reasonably} limit the number of witnesses testifying on any subject being
5 heard before it.

6 Sec. 12. WITNESS FEES AND MILEAGE. Each witness who shall
7 appear under subpoena shall receive for his attendance fee and
8 mileage allowance such sums as are allowed for witnesses appear-
9 ing before the superior courts of the State of Alaska in civil
10 actions. No witness shall be entitled to fees or mileage from
11 the state when subpoenaed at the instance of anyone other than
12 the commission.

13 Sec. 13. DEPOSITIONS. The commission shall have the right
14 to take the testimony of any witness by deposition and for that
15 purpose the attendance of witnesses and the production of books,
16 documents, papers and accounts may be enforced in the same man-
17 ner as in the case of hearings before the commission. Deposi-
18 tions shall be taken in the manner prescribed by law in civil
19 actions.

20 Sec. 14. INSPECTION OF BOOKS, PAPERS AND DOCUMENTS. The
21 commission, each commissioner, or its employees may inspect the
22 accounts, books, papers and documents of any public service com-
23 pany. The commission or any commissioner may examine under oath
24 any officer, agent or employee of a public service company with
25 reference to its affairs. Any person, other than a commissioner,
26 who shall make any demand shall produce written authority from
27 the commission to make such inspection.

28 Sec. 15. MANNER OF SERVING PAPERS. All notices,
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1 applications, complaints, findings of fact, and orders required
2 to be served by the commission may be served by mail. Service
3 shall be complete when a true copy of the paper or document is
4 deposited in the post office properly stamped and addressed to
5 the recipient at his or its address of record with the commission.

6 Sec. 16. FORMS OF RECORDS TO BE PRESCRIBED. The commission
7 may prescribe the form of all accounts, records and memoranda to
8 be kept by public service companies, including accounts, records
9 and memoranda of the movement of traffic, sales of its product,
10 the receipts and expenditures of money, but shall not require
11 system where adequate reports are made in the usual course of business.

12 Sec. 17. PRODUCTION OF OUT-OF-STATE BOOKS AND RECORDS. The
13 commission may by order with or without hearing require the pro-
14 duction within this state at such time and place as it may desig-
15 nate the original or at the option of the company verified copies
16 of any books, accounts, papers or records kept by any public
17 service company in any office without the state.

18 Sec. 18. COMPLAINTS - HEARINGS. Complaint may be made by
19 the commission, any person, corporation, chamber of commerce,
20 board of trade, labor organization, any commercial, mercantile,
21 agricultural or manufacturing society, or any political subdivi-
22 sion of the state, by written complaint alleging that a public
23 service company is in violation of or about to violate the law
24 or order of the commission. The commission shall have power
25 after notice and hearing to correct by order the abuse complained
26 of.

27 All grievances may be joined in one hearing, and no motion
28 for misjoinder of grievances or parties shall be allowed. On
29 review the same rule pertaining to joinder shall apply. No

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1 complaint shall be dismissed because of the absence of direct
2 damage to the complainant.

3 Upon the filing of a complaint the commission shall cause a
4 copy to be served upon the public service company complained of
5 which copy may be accompanied by a notice fixing the time and
6 place for hearing. The time fixed for the hearing shall be not
7 less than 10 days after the date of the service of the notice
8 and complaint except as otherwise ordered by the commission.

9 Sec. 19. HEARINGS - ORDER - RECORD. At the hearing men-
10 tioned in Section 18 the complainant and the public service com-
11 pany complained of shall be entitled to be heard and may intro-
12 duce relevant evidence. The commission shall make written find-
13 ings of fact upon the issues presented and enter its order in
14 writing supported by such findings and specify an effective date.
15 A copy of the finding and order shall be served upon the public
16 service company complained of and its attorney. On application
17 and for good cause shown the commission may extend the time for
18 compliance specified in the order.

19 Sec. 20. RECONSIDERATION OF ORDERS. Within 10 days after
20 service of an order an affected public service company may file
21 with the commission and serve upon all other parties to the pro-
22 ceeding a petition for reconsideration which shall specify the
23 part of the order on which reconsideration is requested and the
24 grounds. If no action is taken on the petition within 10 days
25 from the date of filing, it is denied.

26 Sec. 21. REVIEW OF ORDERS. Judicial review of any final
27 order may be had by any complainant or any affected public ser-
28 vice company by application to the superior court for a writ of
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1 review concerning the findings and the order they support. The
2 writ shall be made returnable not later than 30 days after the
3 date of issuance and shall direct the commission to certify its
4 record in the case to the court. The cause shall be heard by
5 the court on the evidence and exhibits. After hearing the sup-
6 erior court shall enter judgment either affirming, setting aside
7 or remanding the findings or order of the commission. The rea-
8 sonable cost of preparing the transcript of testimony taken before
9 the commission shall be assessable as part of the statutory court
10 costs and when collected shall be deposited to the general fund.
11 If the findings or order be set aside, reversed or remanded, the
12 court shall make specific findings based upon evidence in the
13 record clearly indicating the respects in which the commission's
14 findings or order are erroneous.

15 Sec. 22. FINDINGS OF COMMISSION PRIMA FACIE CORRECT. In
16 any writ of review brought by a public service company to deter-
17 mine the reasonableness of an order or rule of the commission,
18 the findings of fact made by the commission shall be prima facie
19 correct. The burden shall be upon the public service company
20 to establish the order or rule to be unreasonable or unlawful.

21 Sec. 23. SUPERSEDEAS. The pendency of any writ of review
22 shall not stay or suspend the operation of the order of the com-
23 mission. The superior court may, however, restrain or suspend
24 the operation of the commission's order pending review.

25 No order restraining or suspending an order of the commis-
26 sion relating to rates, charges, tolls, rentals, rules, regula-
27 tions, practices, classifications or contracts affecting the
28 same shall be made by the superior court except upon five days'
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notice and after hearing. If a supersedeas is granted, the order shall contain a specific finding based upon evidence that great or irreparable damage would result to the petitioner and specify the nature of the damage.

If the order of the commission is superseded the court by order shall require a surety bond conditioned upon the petitioning company answering for all damages caused by the delay in the enforcement of the order of the commission and all compensation for whatever sums for transmission or service any person or corporation shall be compelled to pay pending the review in excess of that it would otherwise have paid.

Sec. 24. APPEAL TO SUPREME COURT. Appeal to the supreme court from the entry of judgment or appealable orders in the superior court may be had as in civil cases.

Sec. 25. REHEARING BEFORE COMMISSION. The commission may by rule provide for rehearing on any order entered by it.

Sec. 26. COMMISSION MAY CHANGE ORDERS. The commission after notice to affected parties and hearing may rescind or amend any order issued by it.

Sec. 27. REPARATIONS. When complaint has been made to the commission concerning the reasonableness of any rate, toll, rental or charge for service performed by a public service company, and the commission after investigation *and hearing* has determined that the public service company has charged an excessive amount for the service, and that the party complainant is entitled to an award of damages, the commission shall order the public service company to pay to the complainant the excess amount found to have been charged whether the excess amount was charged and collected

1 before or after the filing of the complaint, with interest from
2 the date of the collection of the excess amount; *Incent 1*

3 Sec. 28. REFUND OF OVERCHARGES. When complaint has been
4 made to the commission that any public service company has charg-
5 ed an amount for service rendered in excess of the lawful rate
6 in force at the time the charge was made, and the commission after
7 investigation *and hearing* has determined that the overcharge allegation is
8 true, the commission may order the public service company to pay
9 to the complainant the amount of the overcharge whether the over-
10 charge was made before or after the filing of the complaint, with
11 interest from the date of collection of the overcharge.

12 Sec. 29. ACTION IN COURT ON REPARATIONS AND OVERCHARGES.
13 If the public service company does not comply with the order of
14 the commission for the payment of the overcharge, suit may be
15 had in the superior court to recover the amount of the overcharge
16 with interest. The commission shall certify its record in the
17 case to the court and shall bill the cost to the person request-
18 ing the certified record. The record shall be filed with the
19 clerk of the court within 30 days after suit is instituted. The
20 action shall be heard on this record. If the complainant prevails,
21 the superior court shall enter judgment for the amount of the
22 overcharge with interest and shall allow complainant his costs
23 including cost of the certified record. If the order of the
24 commission is found to be contrary to law or erroneous by reason
25 of the rejection of the testimony the court shall remand the cause
26 to the commission with instructions to receive the rejected
27 testimony and enter a new order based upon the completed record.
28 Appeals to the supreme court shall lie as in other civil cases.

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"provided, however, this section does not apply to rates and charges of public utilities which have been legally established by the commission pursuant to Chapter 2 hereof, nor to rates and charges which have been duly fixed by the governing body of a political subdivision under any other provision of law."

1 Complaints concerning overcharges resulting from collecting un-
2 reasonable rates and charges shall be filed with the commission
3 within six months from the date the overcharge occurred. Those
4 involving the collections of more than the lawful rate shall be
5 filed with the commission within two years from the date the un-
6 lawful charge was made. Suit to recover any such overcharges
7 shall be filed in the superior court within one year from the date
8 of the order of the commission. The procedure provided in this
9 section is exclusive and jurisdictional.

10 Sec. 30. SUMMARY PROCEEDINGS. Whenever the commission shall
11 be of the opinion that any public service company is failing or
12 omitting to do anything required of it by law or by order of the
13 commission, it may direct the attorney general to commence an
14 action in the superior court for the purpose of having the viola-
15 tion or threatened violation enjoined. An appeal may be had to
16 the supreme court from the final judgment as in other civil cases.

17 Sec. 31. ORDER REQUIRING JOINT ACTION. Whenever an order
18 of the commission shall require joint action by two or more pub-
19 lic service companies, the order shall specify that the action
20 shall be made at their joint cost. The affected companies shall
21 have 30 days or more as the commission may prescribe to agree
22 upon the division of cost each shall bear, the costs of opera-
23 tion and maintenance in the future, or the proportion of charges
24 or revenue each shall receive from the joint service and rules
25 governing the same. If the companies fail to agree, the commis-
26 sion after hearing may enter a supplemental order fixing the
27 proportion of such cost or expense to be borne by each company
28 and the manner the same shall be paid or secured.
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1 Sec. 32. ORDERS AND RULES CONCLUSIVE. In all actions be-
2 tween private parties and public service companies involving any
3 rule or order of the commission the orders and rules shall be
4 conclusive unless set aside or annulled upon review.

5 Sec. 33. INTERVENTION BY COMMISSION WHERE ORDER OR RULE IS
6 INVOLVED. In all court actions involving any rule or order of
7 the commission where the commission has not been made a party,
8 the commission shall be served with a copy of all pleadings and
9 may intervene. When the fact that the action involves a rule or
10 order of the commission does not appear until the time of trial,
11 the court shall immediately direct the clerk to notify the com-
12 mission of the pendency of the action and shall permit the com-
13 mission to intervene.

14 Failure to comply with the provisions of this section voids
15 any judgment that modifies or nullifies any rules or order of the
16 commission.

17 Sec. 34. CERTIFIED COPIES OF ORDERS, RULES, ETC. -
18 EVIDENTIARY EFFECT. Upon application of any person the commission
19 shall furnish certified copies of any classification, rate, rule,
20 regulation or order issued by it. Printed copies published by
21 the commission or any certified copy of any such classification,
22 rate, rule, regulation or order shall be admissible in evidence
23 and shall be sufficient to establish the fact that the same con-
24 stitutes the official act of the commission. The commission
25 shall make a reasonable charge when demand is made for copies of
26 any classification, rate, rule, regulation or order that is not
27 contained in the printed reports or copies of papers, accounts
28 or records of public service companies filed with the commission.
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Sec. 35. EXPENSES OF INVESTIGATION AND HEARINGS. 15 days after any public hearing held by it, the commission may ascertain the costs thereof and by order reasonably apportion the costs among the parties, including the commission. In assessing costs the commission may consider ability to pay, evidence of good faith and other relevant or mitigating circumstances. The commission shall allow a reasonable time for payment of the costs except any order of the commission that increases the rate or charges of a public service company shall not take effect until the costs are paid. All payments shall be made to the commission and credited to the general fund.

*of hearings
investigation*

CHAPTER 2.

PUBLIC UTILITIES, PUBLIC SERVICE COMMISSION
AUTHORITY AND DUTIES, AND PENALTIES.

Section 1. DEFINITIONS. As used in this Act, unless specifically defined otherwise or unless the context indicates otherwise:

(1) "affiliated interest" means every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of any public service company engaged in any intrastate business in this state; every corporation and person, other than those above specified, in any chain of successive ownership of five percent or more of voting securities, the chain beginning with the holder of the voting securities of such public service company; every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such chain of successive ownership of five percent or more of

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1 voting securities; every corporation or person with which the
2 public service company has a management or service contract; and
3 every person who is an officer or director of such public service
4 company or of any corporation in any chain of successive owner-
5 ship of five percent or more of voting securities.

6 (2) "commission" means the Public Service Commission.

7 (3) "commissioner" means one of the members of such
8 commission.

9 (4) "public utility" or "utility" means and embraces
10 every corporation whether municipal, public, cooperative or other-
11 wise, company, individual, or association of individuals, their
12 lessees, trustees or receivers appointed by any court having jur-
13 isdiction in the premises, that now or hereafter may own, operate,
14 manage or control any plant or system for the generation, trans-
15 mission or distribution of electric energy and power, ^{intended for sale,} for the fur-
16 nishing of telephone or telegraph communications, for the trans-
17 mission or distribution of heat, natural or manufactured gas, oil
18 or other petroleum products, or water, or for the furnishing of
19 community sewer services to the public for hire, or in the case of
20 cooperatives, to their members, and the plant and other facilities
21 utilized for any of the foregoing purposes. This Act shall not
22 apply to the purveyor of water or oil or other petroleum products
23 by tank, wagon or similar conveyance, nor to a municipally owned
24 and operated water or sewer utility; or to the owner or owners or
25 operator or manager of, nor shall it apply to any pipe line, plant
26 system or equipment used primarily for gathering, collecting,
27 transporting or shipping crude oil, natural gas, condensate or
28 other petroleum substances or products produced by or belonging
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to such owner or owners, or such operator or manager.

(5) "service" is used in this Act in its broadest and most inclusive sense.

Sec. 2. CERTIFICATES OF CONVENIENCE AND NECESSITY -
COMMISSION POWER - FEES. No public utility shall operate after October 1, 1961 without first having obtained from the commission under the provisions of this Act a certificate declaring that public convenience and necessity requires or will require such operation and delineating the area where service is to be provided. However, a certificate shall be granted where it appears to the satisfaction of the commission that the public utility was actually operating in good faith on October 15, 1960 within the confines of the requested area, The certificate may be sold, assigned, leased, transferred or inherited upon authorization by the commission. The commission shall have power after hearing to grant a certificate to provide service in an area already served by a certificate holder only when the existing public utility or utilities serving the area will not provide service to the satisfaction of the commission. In all other cases the commission with or without hearing may issue a certificate as requested or for good cause shown deny the same in whole or part. Terms and conditions may be attached to a certificate as public convenience and necessity may require.

The commission shall collect the following fees from public utilities: Application for a certificate of public convenience and necessity or to amend the same \$50.00; Application to sell, lease or transfer a certificate of public convenience and necessity or any interest \$25.00.

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or that the public utility was installing the facilities necessary to furnish service pursuant to a franchise as of such date.

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1 Sec. 3. AVOIDANCE OF EXTENSION OF DUPLICATING FACILITIES.

2 No public utility shall extend or provide utility service to the

3 premises of any person or corporation already receiving public .

4 utility service from another public utility^{for the same type service} or offer to furnish

5 utility service to any premises located within 1500 feet of the

6 distribution or telephonic communication line as the case may be

7 of another public utility without obtaining the written consent

8 of the other public utility unless the latter is unable or un-

9 willing to provide the service. If the premises to be served

10 are within 1500 feet of the distribution or telephonic communica-

11 tion line as the case may be of two or more public utilities^{exclusive of federally owned}, the ^{or}

12 public utility whose distribution or telephonic communication line^{operational}

13 as the case may be is nearest shall have the right to furnish the ^{utilities}

14 service. Nothing contained herein shall preclude any public util-

15 ity from extending service to his or its property or facilities.

16 Sec. 4. VALUATION OF PUBLIC UTILITY PROPERTY. The commis-

17 sion upon complaint or its own motion shall ascertain and deter-

18 mine the ^{fair} value for rate making purposes of the property of any

19 public utility used and useful for service in this state. This ^{fair} ^{taking into account all}

20 power shall be exercised whenever the commission deems such a ^{just element}

21 valuation or revaluation necessary under this Act. ^{of valuation.}

22 Except for rate proceedings, the commission shall give the

23 complainant and the affected public utility at least 30 days'

24 written notice of the time and place of any hearing held under

25 this section.

26 The book value of a public utility shall be the prima facie

27 value of the utility for rate making purposes.

28 Sec. 5. ACCOUNTING PERIOD AND REPORT. Public utilities

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1 may maintain their accounts on a calendar or fiscal year basis.
 2 Seventy-five days after the close of its accounting period the
 3 utility shall file with the commission a balance sheet verified
 4 by the owner or certifying officer of the utility and such other
 5 information as the commission may require.

6 Sec. 6. DEPRECIATION AND RETIREMENT ACCOUNTS. The commis-
 7 sion shall have power after hearing to require all public service
 8 companies to carry proper and adequate depreciation accounts. The
 9 commission from time to time may ascertain and fix the proper and
 10 adequate rates of depreciation of the several classes of property
 11 of each public service company. Every public service company shall
 12 conform its depreciation accounts to the rates so prescribed. In
 13 fixing the rate of the annual depreciation charge, the commission
 14 shall consider the rates of depreciation prescribed by or main-
 15 tained pursuant to regulations of a federal agency or the terms of
 16 a bond ordinance *or mortgage indenture*

17 Sec. 7. MERCHANDISE ACCOUNTS TO BE KEPT SEPARATE. Every
 18 public utility engaging in the sale of merchandise, appliances
 19 or equipment shall keep separate accounts relating to such busi-
 20 ness. Capital so employed shall not constitute a part of the
 21 value of the company's property for rate making purposes. Reven-
 22 ues from or operating expenses of such business shall not con-
 23 stitute a part of the operating revenues and expenses of the com-
 24 pany as a public service company.

25 Sec. 8. BUDGETS ^{may} ~~TO~~ BE FILED BY COMPANIES -(SUPPLEMENTARY
 26 BUDGET.) Each public utility ^{may} (shall) prepare a budget showing the
 27 amount of money needed during the ensuing year for maintenance,
 28 operation and construction classified by accounts. Within 10 days
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1 of the date of approval, the public utility ^{may} (shall) file it with
2 the commission. Adjustments may be made by filing a supplementary
3 budget.

4 ~~delete~~ Nothing contained herein shall bar or estop the commission
5 from later determining in a rate proceeding that a budgeted ex-
6 penditure shall not be allowed as operating expenses or that an
7 item of construction may not be considered as a part of the value
8 of the public utility's property used and useful in serving the
9 public. However, such item of construction may later be allowed
10 upon proof that it is used and useful.)

11 Sec. 9. SCHEDULE OF RATES. Within 30 days of the effective
12 date of this Act every public utility shall file with the commis-
13 sion schedules or joint schedules showing all rates, tolls, charg-
14 es and regulations which it has established for service or for
15 service in connection therewith or for services performed by any
16 public utility controlled or operated by it.

17 Sec. 10. TARIFF CHANGES - STATUTORY NOTICES - EXCEPTION.
18 Unless the commission otherwise orders, no change shall be made
19 in any schedule of rates and charges including schedules of joint
20 rates except upon 30 days' notice to the commission and publica-
21 tion to the public for 30 days, ^{such notices to run concurrently.} The publication shall plainly
22 state the proposed changes in the schedule then in force and the
23 time when the change will go into effect and shall be posted in
24 the principal office of the utility. The proposed changes shall
25 be shown by printing, filing and publishing new schedules or
26 shall be plainly indicated upon the schedules in force at the
27 time and kept open to public inspection. The commission for good
28 cause may by order allow changes in rates and charges without
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1 requiring the 30 days' notice and publication. When any change is
2 made in any rate, charge, classification, rule or regulation the
3 effect of which is to increase the rate or charge then existing,
4 attention shall be directed to the increase by some character on
5 the copy filed with the commission immediately preceding or fol-
6 lowing the item in the schedule. Such character may be designated
7 by the commission.

8 Sec. 11. SUSPENSION OF TARIFF CHANGES. Whenever any public
9 service company shall file with the commission any schedule,
10 classification, rule or regulation the effect of which is to
11 change any rate, charge, rental or toll being charged, the com-
12 mission upon its own motion or complaint, and after notice may hold
13 a hearing concerning the proposed change and the reasonableness
14 and justness thereof. Pending hearing and decision the commission
15 may suspend the operation of such rate, charge, rental or toll for
16 a period not exceeding ^{five} (ten) months from the time the same would
17 otherwise go into effect.

18 At any hearing involving an increase in any rate, charge,
19 rental or toll being charged, the burden of proof to show that
20 the increase is just and reasonable shall be upon the public ser-
21 vice company; *Article 2*

22 Sec. 12. COMPLAINTS AS TO RATES AND PRACTICES. No complaint
23 as provided in this Act shall be entertained by the commission
24 except upon its own motion as to the reasonableness of the schedule
25 of the rates or charges of any public service company unless the
26 same be signed by the mayor or city manager of the city at the
27 direction of the council or assembly of the borough in which the
28 company complained of is engaged in business, or by not less than
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"provided, however, the commission may authorize the proposed change in such rate, charge, rental or toll upon the filing by the public service company of a corporate surety bond with good and sufficient sureties conditioned upon the refund to rate payers thereof of such amounts as are determined by the commission, following hearing thereon to be excessive."

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1 25 consumers, purchasers or users of the services provided by the
2 public service company. When two or more public service companies
3 are in competition in any area in the state, either may complain
4 against the other that the rates, charges, rules, regulations or
5 practices of the other are unreasonable, unremunerative, discrim-
6 inatory, illegal, unfair, tending to oppress the complainant,
7 stifle competition, or create or encourage the creation of monopoly.

8 Sec. 13. ORDERS RELATING TO RATES AND SERVICES. If the com-
9 mission finds after investigation or hearing that the rates,
10 charges, regulations or practices of a public service company are
11 unjust, unreasonable, insufficient, unjustly discriminatory or
12 preferential, or in violation of the law, it shall determine and
13 fix by order the just, reasonable or legally sufficient rates,
14 charges, regulations or practices to be thereafter observed.

15 Sec. 14. REMUNERATIVE RATES CANNOT BE CHANGED WITHOUT
16 APPROVAL. Whenever the commission finds after hearing that any
17 rate, toll, rental or charge which has been the subject of com-
18 plaint is sufficiently remunerative to a public service company,
19 it may order that without its consent such charges shall not be
20 changed or indirectly altered by classification by the company.

21 Sec. 15. RATES VARYING FROM SCHEDULE UNLAWFUL. No public
22 utility shall collect or receive a greater or less compensation
23 for the furnishing of any commodity or service or for any service
24 in connection therewith than the rates and charges which have been
25 legally established and filed with the commission.

26 Sec. 16. PAYMENTS TO AFFILIATED INTEREST DISALLOWED IF NOT
27 REASONABLE. In any proceeding involving the rates or practices of
28 a public service company, the commission may exclude from the
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1 accounts of the company any payment to an affiliated interest for
2 any services rendered or property or service furnished under exist-
3 ing contracts or arrangements with the affiliated interest unless
4 the company establishes the reasonableness of the payment or in the
5 absence of satisfactory proof that it is reasonable in amount sub-
6 mits proof of the cost to the affiliated interest of rendering the
7 service or furnishing the property or service.

8 Sec. 17. JOINT USE AND INTERCONNECTION OF FACILITIES.

9 (1) Every public utility, municipality, person, associa-
10 tion or corporation having tracks, conduits, subways, poles or
11 other equipment on, over or under any street or highway shall for
12 reasonable compensation permit their use by a public utility when-
13 ever public convenience and necessary requires. The cost of any
14 modifications or additions necessary to such joint use shall be
15 at the expense of the requesting public utility and the cost of
16 maintenance thereof may be as agreed.

17 Whenever public convenience and necessity requires, every
18 public utility for the conveyance of telephone messages shall per-
19 mit physical connection to be made and telephone service to be
20 furnished between telephone systems operated by it and telephone
21 toll lines operated by another public utility or between its toll
22 lines and the toll lines of another public utility. The term
23 "physical connection" shall mean such number of trunk lines or
24 complete wire circuits and connections required to furnish reason-
25 ably adequate telephone service between such companies.

26 If any prospective consumers of any public utility situated
27 within one mile of the distribution facilities of such company
28 shall construct and install the necessary facilities in compliance
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1 with plans and specifications furnished by the company, the elect-
2 ric company shall permit the necessary physical connection to be
3 made and service to be furnished to the person who has constructed
4 and installed the facilities. No connection may be permitted
5 where it would result in substantial detriment to other consumers.

6 (2) Upon failure to agree upon such use, physical con-
7 nection or the terms and conditions upon which the same shall be
8 made, any affected public utility, person, association or corpora-
9 tion may petition the commission after hearing to determine that
10 public convenience and necessity so requires. The order shall
11 prescribe reasonable conditions and compensation for the joint use
12 and shall state who shall bear the expense of making and maintain-
13 ing the connection.

14 Sec. 18. STANDARDS OF SERVICE - RATES AND SERVICE AREAS.

15 Every public service company is required to furnish adequate ser-
16 vice. Their facilities shall be modern, adequate, sufficient and
17 efficient. The rates or charges made by any public service company
18 for rendering service shall be fair, just, reasonable and compen-
19 satory. For rate making and accounting purposes, the commission
20 may consider a single municipality, two or more municipalities or
21 the intervening rural territory as a regional unit where the same
22 public utility serves the region, and may prescribe uniform rates
23 for consumers or patrons of the same class within the region.

24 However, the commission may authorize different rates for consumers
25 or patrons of the same class served by such a public utility to
26 reflect a substantial difference in the cost of providing service.

27
28 Sec. 19. STANDARDS FOR MEASUREMENT. The commission may fix
29 by regulation adequate standards for the measurement of the quality.

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"No provision of this act authorizing the regulation of rates or services of a public utility within the boundaries of a ~~political sub~~^{municipal} ~~division~~ shall apply, nor shall any provision of this act authorizing regulation of rates for services furnished by a cooperative apply."

1 pressure, voltage or quantity of service rendered by any public
2 utility. In prescribing regulations for the testing or measuring
3 of such service, the commission shall consider the standard prac-
4 tices of the regulated industry.

5 Sec. 20. TESTING OF METER STANDARDS AND APPLIANCES. The
6 commission may provide by regulation for the annual testing and
7 certifications of meter standards and appliances used for the
8 measuring of any product or service of a public utility by labor-
9 atories acceptable to the commission. Provision by regulation may
10 also be made for appeals to the commission from the findings of a
11 public utility which tests its own meters or appliances.

12 In the interest of economy the Commissioner of Commerce upon
13 request of the commission may assign the examination and testing
14 function contemplated to the Division of Weights and Measures.

15 Sec. 21. RIGHT TO ENTER PREMISES. The commission, its agents
16 or employees shall have the right to enter premises occupied by
17 public utilities for making the examinations and tests provided
18 in this Act.

19 Sec. 22. EXISTING FRANCHISES OR ORDINANCES. All existing
20 franchises and grants under ordinances now held by any public
21 utility shall be validated to the extent that the same are now
22 legally enforceable. Nothing in this Act contained shall authorize
23 any public utility during the remainder of the term of any grant
24 or franchise under which it may be acting at the time this Act
25 takes effect to charge for any service in such grant or franchise
26 contracted exceeding the maximum rate or rates fixed in such grant
27 or franchise.

28 X Sec. 23. STATE ASSISTANCE TO MUNICIPALITIES AND PUBLIC
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1 UTILITY DISTRICTS. Where general obligation or revenue bonds
 2 are to be issued by any municipality or public utility district
 3 to finance the construction of a public utility, or to provide
 4 for additions or improvements, the commission may review the pro-
 5 posed bonding ordinance to determine if the ordinance permits the
 6 utility to operate in the public interest. In the event the com-
 7 mission finds that the bonding ordinance is unduly restrictive,
 8 the interest to be charged is excessive, or the ordinance will
 9 preclude operation of the utility in the public interest, the
 10 commission may make such recommendations (or orders) relating
 11 thereto as it deems reasonable and proper including, without
 12 limitation, recommendations to the Governor for legislation to
 13 authorize the issuance of general obligation bonds in the name
 14 of the state to finance such constructions, additions or improve-
 15 ments.

16 Sec. 24. RIGHT OF ENTRY. Every public utility shall have
 17 the right of entry upon any land within its certificated area for
 18 the purpose of examining, locating and surveying the area, doing
 19 no unnecessary damage thereby.

20 Sec. 25. LIMITATIONS ON CITIES, BOROUGHS OR POLITICAL SUB-
 21 DIVISIONS. No city, borough or other political subdivision of
 22 this state shall enact or attempt to adopt any license, franchise,
 23 ordinance or privilege that conflicts or is inconsistent with the
 24 provisions of this Act. All ordinances or regulations now adopted
 25 that are inconsistent with the provisions of the Act are nullified
 26 or amended to be consistent with the provisions of this Act.

27 Sec. 26. CONTINUATION OF EXISTING LAW. The provisions of
 28 this Act insofar as they are the same as statutory provisions
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1 repealed by this Act, and relating to the same subject matter,
2 shall be construed as restatements and continuations, and not as
3 new enactments.

4 Sec. ²⁶ PENALTIES. Every person, including any officer,
5 agent or employee of a corporation who violates, procures, aids or
6 abets in the violation of any provision of this Act, or fails to
7 comply with any order, decision or regulation issued by the com-
8 mission, shall be guilty of a misdemeanor, and upon conviction
9 thereof shall be punishable by a fine of not to exceed \$1000.00.
10 Every day's violation of this Act or of any of the terms or con-
11 ditions of any such order, decision or regulation shall constitute
12 a separate offense, punishable as aforesaid.

13 Sec. ²⁷ REPEALS AND SAVING. The following acts or parts
14 of acts are repealed:

15 Ch. 199, SLA 1959

16 Ch. 156, SLA 1960

17 Such repeals shall not be construed as affecting any existing
18 right acquired under the provisions of the statutes repealed, nor
19 as affecting any proceeding instituted thereunder, nor any rule,
20 regulation or order promulgated thereunder, nor any administrative
21 action taken thereunder, nor the term of office or appointment or
22 employment of any person appointed or employed thereunder.

23 All laws inconsistent or in conflict with this Act including
24 but not limited to those pertaining to municipal corporations,
25 public utility districts and cooperatives shall be deemed repealed
26 or amended in accordance with the provisions herein.

27 Sec. ²⁸ EFFECTIVE DATE. This Act shall take effect immed-
28 iately upon its passage and approval or upon its becoming a law
29 without such approval.