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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

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 the latter shall appoint the executive
12 director of the commission 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,
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22 (1) "commission" means the Public Service Commission.

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

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

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

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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1 tecum.

2 b. Subpenas. Before the hearing has commenced the commis-
3 sion may issue subpenas and subpenas duces tecum at the request
4 of any party in accordance with the state rules of civil proced-
5 ure. After the hearing has commenced the commission or an exam-
6 iner sitting alone may issue subpenas and subpenas duces tecum.

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

16 d. Contempt. If any person in proceedings before the com-
17 mission disobeys or resists any lawful order, refuses to respond
18 to a subpoena, refuses to take oath or affirmation as a witness,
19 refuses to be examined, or is guilty of misconduct during a hear-
20 ing or so near the place thereof as to obstruct the proceeding,
21 the commission shall certify the facts to the superior court for
22 the division where the proceedings are held. The court shall
23 then issue an order directing the person to appear before the
24 court and show cause why he should not be punished as for contempt.
25 The order and a copy of the certified statement shall be served
26 on the person. The court shall then have jurisdiction. The
27 same proceedings shall be had, the same penalties may be imposed
28 and the person charged may purge himself of the contempt in the
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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 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
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 duplication or a new system where adequate reports are made in the
12 usual course of business.

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

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

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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1 notice and after hearing. If a supersedeas is granted, the order
2 shall contain a specific finding based upon evidence that great
3 or irreparable damage would result to the petitioner and specify
4 the nature of the damage.

5 If the order of the commission is superseded the court by
6 order shall require a surety bond conditioned upon the petition-
7 ing company answering for all damages caused by the delay in the
8 enforcement of the order of the commission and all compensation
9 for whatever sums for transmission or service any person or cor-
10 poration shall be compelled to pay pending the review in excess
11 of that it would otherwise have paid.

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

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

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

20 Sec. 27. REPARATIONS. When complaint has been made to the
21 commission concerning the reasonableness of any rate, toll, rent-
22 al or charge for service performed by a public service company,
23 and the commission after investigation has determined that the
24 public service company has charged an excessive amount for the
25 service, and that the party complainant is entitled to an award
26 of damages, the commission shall order the public service com-
27 pany to pay to the complainant the excess amount found to have
28 been charged whether the excess amount was charged and collected
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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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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
16 for sale, for the furnishing of telephone or telegraph communica-
17 tions, for the transmission or distribution of heat, natural or
18 manufactured gas, oil or other petroleum products, or water, or
19 for the furnishing of community sewer services to the public for
20 hire, or in the case of cooperatives, to their members, and the
21 plant and other facilities utilized for any of the foregoing
22 purposes. This Act shall not apply to the purveyor of water or
23 oil or other petroleum products by tank, wagon or similar convey-
24 ance, or to a municipally owned and operated water or sewer utility;
25 or to the owner or owners or operator or manager of, nor shall it
26 apply to any pipe line, plant, system or equipment used primarily
27 for gathering, collecting, transporting or shipping crude oil,
28 natural gas, condensate or other petroleum substances or products
29 produced by or belonging to such owner or owners, or such

1 operator or manager.

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

4 Sec. 2. CERTIFICATES OF CONVENIENCE AND NECESSITY - COM-
5 MISSION POWER - FEES. No public utility shall operate after Oct-
6 ober 1, 1961 without first having obtained from the commission
7 under the provisions of this Act a certificate declaring that pub-
8 lic convenience and necessity requires or will require such opera-
9 tion and delineating the area where service is to be provided.
10 However, a certificate shall be granted where it appears to the
11 satisfaction of the commission that the public utility was actually
12 operating in good faith on October 15, 1960 within the confines of
13 the requested area, or that the public utility was installing the
14 facilities necessary to furnish service pursuant to a franchise as
15 of such date. The certificate may be sold, assigned, leased, trans-
16 ferred or inherited upon authorization by the commission. The com-
17 mission shall have power after hearing to grant a certificate to
18 provide service in an area already served by a certificate holder
19 only when the existing public utility or utilities serving the
20 area will not provide service to the satisfaction of the commission.
21 In all other cases the commission with or without hearing may
22 issue a certificate as requested or for good cause shown deny the
23 same in whole or part. Terms and conditions may be attached to a
24 certificate as public convenience and necessity may require.

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

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 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, the
12 public utility whose distribution or telephonic communication line
13 as the case may be is nearest shall have the right to furnish the
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 value for rate making purposes of the property of any
19 public utility used and useful for service in this state. This
20 power shall be exercised whenever the commission deems such a
21 valuation or revaluation necessary under this Act.

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.

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 TO BE FILED BY COMPANIES - SUPPLEMENTARY
26 BUDGET. Each public utility 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 shall file it with
2 the commission. Adjustments may be made by filing a supplementary
3 budget.

4 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. 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 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.

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 burough in which the
28 company complained of is engaged in business, or by not less than
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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
29

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
29

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 No provision of this Act authorizing the regulation of rates
28 or services of a public utility within the boundaries of a munici-
29 pality shall apply, nor shall any provision of this Act authorizing

1 regulation of rates for services furnished by a cooperative apply.

2 Sec. 19. STANDARDS FOR MEASUREMENT. The commission may fix
3 by regulation adequate standards for the measurement of the quality,
4 pressure, voltage or quantity of service rendered by any public
5 utility. In prescribing regulations for the testing or measuring
6 of such service, the commission shall consider the standard prac-
7 tices of the regulated industry.

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

15 In the interest of economy the Commissioner of Commerce upon
16 request of the commission may assign the examination and testing
17 function contemplated to the Division of Weights and Measures.

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

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

1 or franchise.

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

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

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

28 Sec. 26. CONTINUATION OF EXISTING LAW. The provisions of
29 this Act insofar as they are the same as statutory provisions

