

Proposed  
Public Utility Code  
with Source Notes and Comments

General Assembly of the Commonwealth of Pennsylvania  
JOINT STATE GOVERNMENT COMMISSION  
Harrisburg, Pennsylvania  
March 1976

The Joint State Government Commission was created by Act of 1937, July 1, P.L. 2460, as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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# Public Utility Laws and Procedures

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# Letter of Transmittal

To the Members of the General Assembly  
of the Commonwealth of Pennsylvania:

The Joint State Government Commission is pleased to present this publication containing a proposed codification of Pennsylvania's public utility law, prepared for incorporation in the Pennsylvania Consolidated Statutes as Title 66. Comments, source notes and cross-reference tables are included to facilitate study and comparison with existing law.

The codification was prepared under the direction of the Task Force on Public Utility Laws and Procedures, appointed pursuant to 1975 House Resolution Serial No. 66 and authorized by the Executive Committee of the Joint State Government Commission on March 19, 1975.

In this proposed legislation, no policy changes are made in existing law. The Introduction discusses the assignment and work to date of the task force and outlines the direction of its continuing efforts, which will center on the review of pending legislation before the General Assembly intending to reform the public utility laws and on the development of policy recommendations for changes in a number of significant areas.

Respectfully submitted,  
FRED J. SHUPNIK, *Chairman*

*Joint State Government Commission  
Room 450, Capitol Building  
Harrisburg, Pennsylvania  
March 1976*



# Introduction

The General Assembly has focused attention on Pennsylvania's public utility statutes in recent months, with two standing committees and a task force of the Joint State Government Commission conducting studies and formulating legislative proposals.

Authorizing the Task Force on Public Utility Laws and Procedures, House Resolution Serial No. 66, adopted March 18, 1975, highlights the pressures that have generated this increased concern and the goals of the Legislature with respect to public utility law:

WHEREAS, The combined forces of uncontrolled inflation and the rising cost of energy are crushing the American consumer in an economic vise. That consumer is looking to a concerned and responsive government to show awareness of his plight and to take positive and deliberative action; and

WHEREAS, The Pennsylvania Public Utility Commission and the companies it regulates are the subject of much criticism from individual consumers as well as representatives of government, business, consumer organizations; and

WHEREAS, A comprehensive review of the structure, procedures, rules and regulations of the Pennsylvania Public Utility Commission and a review of all other provisions of the act of May 28, 1937 (P.L. 1053, No. 286), known as the "Public Utility Law" is long overdue and such review should produce a well-founded, documented and unified package of reforms for consideration; therefore be it

RESOLVED, That the House of Representatives directs the Joint State Government Commission to appoint a task force to conduct a comprehensive review of the structure, procedures, rules and regulations of the Pennsylvania Public Utility Commission and all provisions of the act of May 28, 1937 (P.L. 1053, No. 286), for the purpose of developing recommendations for improvements in the current policies of law; and be it further

RESOLVED, That the Joint State Government Commission shall make a complete report of its findings, together with recommendations for appropriate action, to the General Assembly as soon as possible.

The task force called for in this resolution organized on July 14, 1975, under the chairmanship of Representative Ronald R. Cowell. At this meeting a resolution was unanimously passed authorizing the Commission staff to review existing public utility laws, court decisions, regulations and practices and to prepare a codification of such law for inclusion into the Pennsylvania Consolidated Statutes as Title 66. It was agreed that a codification—which would involve reorganizing, simplifying, and clarifying existing law—was an essential first step before a “well-founded, documented and unified package of reforms” could be considered.

### **Codifying Existing Law**

Since the Public Utility Law was enacted nearly 40 years ago and subsequently amended many times—often in a haphazard, inconsistent manner—the task force intended this comprehensive revision to provide a more accessible, understandable law while not altering its application. The staff was directed to unify and reorganize the basic law and related statutes, clarify and modernize the language and eliminate numerous duplications and inconsistencies.

The proposed codification was submitted for review to the Public Utility Commission, through its Counsel, Edward Morris, and the staffs of the Senate Committee on Consumer Affairs, chaired by Senator Franklin L. Kury, and the House Committee on Mines and Energy Management, chaired by Representative Bernard F. O’Brien. In order to avoid duplication of efforts, the task force has closely followed the work of these standing committees, which are currently concerned with legislation effecting reforms in public utility law.

On January 27, 1976, the task force approved the code and authorized its publication with comments, source notes and cross-reference tables to facilitate study by the members of the General Assembly and other interested parties.

### **Reforming the Law**

Suggested areas of reform are numerous and often involve highly technical and controversial matters. For example, the report of the Senate Consumer Affairs Committee dated September 1975 makes 49 recommendations that require modification of the law, in matters such as terms, salaries, responsibilities and conduct of the com-



missioners; PUC organization, budget, hearing procedures, powers and scope of regulatory authority; consumer advocacy; and rate base and structure.

The task force began its study of existing law and reform recommendations with review of the work of the House Committee on Mines and Energy Management and the Senate Committee on Consumer Affairs at a meeting on November 10, 1975.

Directed by 1975 House Resolution Serial No. 59 to investigate the conditions leading to current increases in the cost of electricity, the House committee was assisted by the Auditor General's office, which conducted investigative audits of power companies and issued reports. According to Representative O'Brien, committee chairman, and George Ellis, research analyst, the audits uncovered serious shortcomings relating to utility contracts with suppliers and the fuel adjustment clause. These findings led to further committee action to strengthen the surveillance capacity of the PUC, to eliminate deficiencies in the fuel adjustment clause and to conduct investigative audits of coal producers. To date, the committee's efforts have resulted in the enactment of legislation limiting rate increases in fuel adjustment (Act of 1975, July 30, No. 76) and, through administrative action, the development of a professional auditing staff within the PUC.

James H. Cawley, counsel to the Senate Committee on Consumer Affairs, and Vince Carocci, Senate majority information officer, discussed with the task force the Senate committee's extensive recommendations, resulting from study conducted pursuant to 1975 Senate Resolution Serial No. 33. Senate Bills 1216 through 1226 and Senate Concurrent Resolutions Serial Nos. 228 and 229—which embody recommendations in the committee report—were introduced on November 25, 1975, and are currently being considered by the Senate.

At the task force meeting of January 27, members determined to continue review of proposed reforms, including more than 50 pieces of legislation pending before the General Assembly. In addition, the task force decided to study in detail the following significant policy issues in order to determine whether changes in the law should be recommended:

1. Scope of Public Utility Commission regulatory jurisdiction.
2. Peak-load pricing and off-peak usage.

3. Specification of particular rate bases.

4. Guidelines in the choice of rate structure by the PUC.

Suggestions regarding the codification and proposals for policy change are invited and should be addressed to Donald C. Steele, Research Director, Joint State Government Commission, 450 Main Capitol Building, Harrisburg, Pennsylvania 17120.

# Proposed Public Utility Code

## AN ACT

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, adding provisions relating to public utilities and making repeals.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 66, act of November 25, 1970 (P.L. 707, No. 230), known as the Pennsylvania Consolidated Statutes, is amended by adding parts to read:

**TITLE 66**  
**PUBLIC UTILITIES**

Part

- I. Preliminary Provisions.
- II. Commission Powers, Duties, Practices and Procedures.
- III. Regulation of Public Utilities Generally.
- IV. Special Provisions Relating to Regulation of Public Utilities.
- V. Miscellaneous Provisions.

**PART I**  
**PRELIMINARY PROVISIONS**

Chapter

- 1. General Provisions
- 3. Public Utility Commission

**CHAPTER 1**  
**GENERAL PROVISIONS**

Sec.

- 101. Short title of title.
- 102. Definitions.
- 103. Prior rights preserved.
- 104. Interstate and foreign commerce.

**§ 101. Short title of title.**

This title shall be known and may be cited as the "Public Utility Code."

**Source:** This section is derived from Section 1 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 102. Definitions.**

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Commission." The Pennsylvania Public Utility Commission of this Commonwealth.

"Common carrier." Any and all persons or corporations holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by, through, over, above, or under land, water, or air, and shall include forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

"Common carrier by motor vehicle." Any common carrier who or which holds out or undertakes the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes any motor vehicle, with or without driver, for transportation or for use in transportation of persons or property as aforesaid, and shall include common carriers by rail, water, or air, and express or forwarding public utilities in so far as such common carriers or such public utilities are engaged in such motor vehicle operations, but does not include:

(1) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision, or control of the motor vehicles so sold.

(2) Transportation of school children for school purposes or to

and from school-sponsored extra curricular activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number, or between their homes and Sunday school in any motor vehicle owned by the school district, private school or parochial school, or transportation of school children between their homes and school or to and from school-sponsored extra curricular or educational activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number, if the person performing the extra curricular transportation has a contract for the transportation of school children between their homes and school, with the private or parochial school, with the school district or jointure in which the school is located, or with a school district that is a member of a jointure in which the school is located if the jointure has no contracts with other persons for the transportation of students between their homes and school, and if the person maintains a copy of all contracts in the vehicle at all times, or children between their homes and Sunday school in any motor vehicle operated under contract with the school district, private school or parochial school.

(3) Any owner or operator of a farm transporting agricultural products from, or farm supplies to, such farm, or any independent contractor or cooperative agricultural association hauling agricultural products or farm supplies exclusively for one or more owners or operators of farms.

(4) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated and road construction materials.

(5) Transportation of property by the owner to himself, or to purchasers directly from him, in vehicles owned and operated by the owner of such property and not otherwise used in transportation of property for compensation for others.

(6) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election.

(7) Transportation of pulpwood, chemical wood, saw logs or veneer logs from woodlots.

(8) Transportation by towing of wrecked or disabled motor vehicles.

(9) Any person or corporation who or which furnishes transportation for any injured, ill or dead person.

“Corporation.” All bodies corporate, joint-stock companies, or associations, domestic or foreign, their lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations, except as otherwise expressly provided in this title, nor bona fide cooperative associations which furnish service on a nonprofit basis only to their stockholders or members.

“Facilities.” All the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with, the business of any public utility. Property owned by the Commonwealth or any municipal corporation prior to June 1, 1937, shall not be subject to the commission or to any of the terms of this title, except as elsewhere expressly provided in this title.

“Forwarder.” Any person or corporation not included in the terms “motor carrier” or “broker” who or which issues receipts or billings for property received by such person or corporation for transportation, forwarding, or consolidating, or for distribution by any medium of transportation or combination or media of transportation, other than solely by motor vehicle.

“Motor carrier.” A common carrier by motor vehicle, and a contract carrier by motor vehicle.

“Motor vehicle.” Any vehicle which is self-propelled, excepting power shovels, tractors other than truck tractors, road rollers, agricultural machinery, and vehicles which solely move upon or are guided by a track, or travel through the air.

“Municipal corporation.” All cities, boroughs, towns, townships, or counties of this Commonwealth, and also any public corporation, authority, or body whatsoever created or organized under any law of this Commonwealth for the purpose of rendering any service similar to that of a public utility.

“Person.” Individuals, partnerships, or associations other than corporations, and includes their lessees, assignees, trustees, receivers, executors, administrators, or other successors in interest.

“Public utility.”

(1) The term “public utility” includes persons or corporations now or hereafter owning or operating in this Commonwealth equipment, or facilities for:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

(ii) Diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation.

(iii) Transporting passengers or property as a common carrier.

(iv) Use as a canal, turnpike, tunnel, bridge, wharf, and the like for the public for compensation.

(v) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

(vi) Conveying or transmitting messages or communications by telephone or telegraph for the public for compensation.

(vii) Sewage collection, treatment, or disposal for the public for compensation.

(2) The term “public utility” does not include:

(i) Any person or corporation, not otherwise a public utility, who or which furnishes service only to himself or itself.

(ii) Any bona fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis.

(iii) Any producer of natural gas not engaged in distributing such gas directly to the public for compensation.

“Railroad.” Every railroad, other than a street railway, by whatsoever power operated, for public use in the conveyance of passengers or property, or both, and all the facilities thereof.

“Rate.” Every individual, or joint fare, toll, charge, rental, or other compensation whatsoever of any public utility, or contract carrier by motor vehicle, made, demanded, or received for any service within this act, offered, rendered, or furnished by such public utility, or contract carrier by motor vehicle, whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.

“Service.” Includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this title to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them, but shall not include any acts done, rendered or performed, or any thing furnished or supplied, or any facility used, furnished or supplied by public utilities or contract carriers by motor vehicle in the transportation of voting machines to and from polling places for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election, or in the transportation of any injured, ill or dead person, or in the transportation by towing of wrecked or disabled motor vehicles, or in the transportation of pulpwood or chemical wood from woodlots.

“Street railway.” Every railroad and railway, or any extension or extensions thereof, by whatsoever power operated, for public use in the conveyance of passengers or property, or both, located mainly or in part upon, above, below, through, or along any highway in any city, borough, or town, and not constituting or used as a part of a trunk line railroad system, and all the facilities thereof.

“Tariff.” All schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carrier.

“Transportation of passengers or property.” Any and all service in connection with the receiving, transportation, elevation, transfer in transit, ventilation, refrigeration, icing, storage, handling, and deli-

vering of property, baggage or freight, as well as any and all service in connection with the transportation or carrying of passengers, but shall not mean any service in connection with the receiving, transportation, handling or delivering of voting machines to and from polling places for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election, or the transportation of any injured, ill or dead person, or the transportation by towing of wrecked or disabled motor vehicles, or the transportation of pulpwood or chemical wood from woodlots.

**Source:** This section is derived from Section 2 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 103. Prior rights preserved.

(a) Existing law continued.—Except as otherwise specifically provided in this title, it is the intention of this title to continue existing law. Any public utility, contract carrier by motor vehicle, or broker rendering service or having the right to render service on the day preceding the effective date of this title shall be entitled to the full enjoyment and the exercise of all and every right, power and privilege which it lawfully possessed on that date.

(b) Existing proceedings, certificates, regulations, tariffs and contracts.—All litigation, hearings, investigations, and other proceedings whatsoever, pending under any act repealed by this title, shall continue and remain in full force and effect, and may be continued and completed under the provisions of this title. All certificates, permits, licenses, orders, rules, regulations or tariffs made, issued, or filed under any act repealed by this title, and in full force and effect upon the effective date of this title, shall remain in full force and effect for the term issued, or until revoked, vacated, or modified under the provisions of this title. All existing contracts and obligations of the commission or its predecessor, entered into or created under any act repealed by this title, and in force and effect upon the effective date of this title, shall remain in full force and effect and shall continue to be performed by the commission.

**Source:** This section is derived from Sections 704, 917, 1401 and 1404 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** The code consolidates various provisions formerly found in the 1937 act which assured the continued validity of previous actions granting rights to utilities and persons which were in effect

when that act was passed. This section also assures the continuing validity of such actions taken under the 1937 act.

**§ 104. Interstate and foreign commerce.**

The provisions of this title, except when specifically so provided, shall not apply, or be construed to apply, to commerce with foreign nations, or among the several states, except in so far as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

**Source:** This section is derived from Section 1402 of the Public Utility Law, 1937, May 28, P.L. 1053.

**CHAPTER 3  
PUBLIC UTILITY COMMISSION**

Sec.

- 301. Establishment, members, qualifications and chairman.
- 302. Salaries.
- 303. Removal of commissioner.
- 304. Seal; certified documents.
- 305. Secretary and other employees.
- 306. Counsel.
- 307. Inspectors for enforcement.
- 308. Investigations and hearings.
- 309. Oaths and subpoenas.
- 310. Depositions.
- 311. Witness fees.
- 312. Privilege and immunity.
- 313. Joint hearings and investigations; reciprocity.
- 314. Investigation of interstate rates, facilities and service.
- 315. Burden of proof.
- 316. Effect of commission action.
- 317. Fees for services rendered by commission.
- 318. Commission to cooperate with other departments.

**§ 301. Establishment, members, qualifications and chairman.**

(a) Appointment and terms of members.—The Pennsylvania Public Utility Commission, established by the act of March 31, 1937 (P.L. 160, No. 43), as an independent administrative commission, is



hereby continued as such and shall consist of five members who shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate for a term of ten years. No commissioner upon the expiration of his term shall continue to hold office until his successor shall be duly appointed or shall be qualified.

(b) **Qualifications and restrictions.**—Each commissioner, at the time of his appointment and qualification shall be a resident of this Commonwealth and shall have been a qualified elector therein for a period of at least one year next preceding his appointment, and shall also be not less than 30 years of age. No person shall be appointed a member of the commission who occupies any official relation to any public service company or public utility, or who holds any other appointive or elective office of the Commonwealth, or any political subdivision thereof. No commissioner shall hold any office or position, or be engaged in any business, employment or vocation, the duties of which are incompatible with the duties of his office as commissioner.

(c) **Chairman.**—A member designated by the Governor shall be the chairman of the commission during such member's term of office. When present, the chairman shall preside at all meetings, but in his absence a member, designated by the chairman, shall preside and shall exercise, for the time being, all the powers of the chairman.

**Comment:** For powers which the commission may authorize the chairman to assume see Section 308 (a), *infra*.

(d) **Quorum.**—Three members of the commission shall constitute a quorum and, for all purposes, including the making of any order or the ratification of any act done or order made by less than three commissioners, at least three of the commissioners must concur. No vacancy in the commission shall impair the right of a quorum of the commissioners to exercise all the rights and perform all the duties of the commission.

**Source:** This section is derived from Sections 1, 2 and 3 of the act of 1937, March 31, P.L. 160.

### § 302. Salaries.

Each of the commissioners shall receive an annual salary of

\$24,000, except the chairman, who shall receive an annual salary of \$25,000.

**Source:** This section is derived from Section 1 of the act of 1937, March 31, P.L. 160.

### § 303. Removal of commissioner.

The governor, by and with the consent of two-thirds of all of the members of the Senate, may remove any commissioner for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him, and affording him an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten days notice. If the commissioner is removed, the Governor shall file with the Department of State a complete statement of all charges made against the commissioner and his finding thereon, together with a complete record of the proceedings.

**Source:** This section is derived from Section 4 of the act of 1937, March 31, P.L. 160.

### § 304. Seal; certified documents.

(a) Seal.—The commission shall adopt and use an official seal, by which the commission shall authenticate its proceedings, and of which seal the courts shall take judicial notice. A copy of any paper or document on file with the commission authenticated by any such seal shall be evidence equally and in like manner as the original.

(b) Certified copies of documents admissible in evidence.—Copies of all official documents, regulations and orders filed or deposited in the office of the commission, certified by the secretary under the official seal of the commission to be true copies of the originals, shall be evidence in like manner as the originals, in all matters before the commission and in the courts of this Commonwealth.

**Source:** Subsection (a) is derived from Section 6 of the act of 1937, March 31, P.L. 160; Subsection (b) is derived from Section 909 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 305. Secretary and other employees.

(a) Secretary.—The commission may appoint a secretary to hold office at its pleasure. The secretary shall have such powers and shall perform such duties not contrary to law as the commission shall prescribe. The commission shall have power and authority to

designate, from time to time, one of its clerks to perform the duties of the secretary during his absence, and the clerk so designated shall possess, for the time so designated, the powers of the secretary of the commission.

(b) Other employees.—The commission, with the approval of the Governor, shall have the power to appoint such officers, experts, engineers, statisticians, accountants, inspectors, clerks and employees as may be necessary for the proper conduct of the work of the commission.

(c) Compensation.—The compensation of the secretary and such persons shall be fixed by the commission in accordance with the standards of compensation fixed by the Executive Board.

**Source:** This section is derived from Section 6 of the act of 1937, March 31, P.L. 160.

### **§ 306. Counsel.**

Counsel and assistant counsels to the commission shall be appointed by the Attorney General, with the approval of the Governor. The compensation of the counsel and assistant counsels shall be fixed by the commission with the approval of the Governor. Such counsel or assistants shall attend the hearings before the commission or a commissioner, or a special agent or examiner, and conduct the examination of witnesses when requested so to do by the commission or a commissioner, and shall represent the commission upon appeals and other hearings in the courts of this Commonwealth, or in any Federal court, and in actions instituted to recover penalties and to enforce regulations and orders of the commission. Such counsel and assistants shall also assist the Attorney General in conducting all mandamus, injunctions and quo warranto proceedings at law or in equity, instituted by him for the enforcement of the regulations and orders of the commission, and shall perform such other professional duties as may be required of them by the commission.

**Source:** This section is derived from Section 9 of the act of 1937, March 31, P.L. 160.

### **§ 307. Inspectors for enforcement.**

The commission may employ such inspectors, as it may deem necessary, for the purpose of enforcing the provisions of this title. Such inspectors are hereby declared to be police officers, and are

hereby given police power and authority throughout this Commonwealth to arrest on view, without writ, rule, order, or process, any person operating as a motor carrier or common carrier by airplane without a certificate or permit required by this title. Such inspectors are hereby given authority to stop vehicles on the highways of this Commonwealth, and to inspect the cargoes of such vehicles, and any receipts or bills of lading pertaining to such cargoes.

**Source:** This section is derived from Section 916 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 308. Investigations and hearings.

(a) Powers of chairman.—The commission may authorize the chairman to:

(1) Designate the time and place for the conducting of investigations, inquiries and hearings.

(2) Assign cases to a commissioner or commissioners for hearing, investigation, inquiry, study or other similar purposes.

(3) Assign cases to special agents or examiners for the taking and receiving of evidence.

(4) Direct and designate officers and employees of the commission to make investigations, inspections, inquiries, studies and other like assignments for reports to the commission.

(b) Powers of commission.—The commission may investigate and examine the condition and management of any public utility or any other person or corporation subject to this title. In conducting such investigations the commission may proceed, either with or without a hearing, as it may deem best, but it shall make no order without affording the parties affected thereby a hearing. Any investigation, inquiry or hearing may be undertaken or held by or before any one or more of the commissioners. Any determination or order of a commissioner or commissioners upon any such investigation, inquiry or hearing, undertaken or held by him or them shall not become effective until approved and confirmed by the commission.

(c) Special agent or examiner.—In any investigation, inquiry or hearing, the commission may designate a special agent or examiner who shall have the power to administer oaths and examine witnesses and receive evidence in any locality which the commission, having regard to the public convenience and the proper discharge of

its functions and duties, may designate. The testimony and evidence so taken or received shall have the same force and effect as if taken or received by the commission, or any one or more of the commissioners.

**Comment:** For hearing procedure on complaints filed, see Chapter 7.

**Source:** This section is derived from Section 1008 of the Public Utility Law, 1937, May 28, P.L. 1053, and Sections 7 and 8 of the act of 1937, March 31, P.L. 160.

### § 309. Oaths and subpoenas.

The commission, or its representative, shall have the power, in any part of this Commonwealth, to subpoena witnesses, to administer oaths, to examine witnesses, or to take such testimony, or compel the production of such books, records, papers, and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation, or hearing, held or had by it, and to do all necessary and proper things and acts in the lawful exercise of its powers or the performance of its duties. The fees for serving a subpoena shall be the same as those paid sheriffs for similar services.

**Source:** This section is derived from Section 1009 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 310. Depositions.

The commission, or any commissioner, or any party to proceedings before the commission, may cause the deposition of witnesses residing within or without this Commonwealth to be taken in the manner prescribed by the Pennsylvania Rules of Civil Procedure for taking depositions in civil actions.

**Source:** This section is derived from Section 1010 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 311. Witness fees.

Witnesses who are summoned before the commission shall be paid the same fees and mileage as are paid to witnesses in the courts of common pleas. Witnesses whose depositions are taken pursuant to the provisions of this title, and the officer taking the same, shall be entitled to the same fees as are paid for like services in such courts. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses of the commission.

**Source:** This section is derived from Section 1011 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 312. Privilege and immunity.**

No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation or inquiry by, or hearing before, the commission or its representative, when ordered to do so, upon the ground that the testimony or evidence, book, document, paper, or account required may tend to incriminate him or subject him to penalty or forfeiture. No person shall be prosecuted, punished, or subjected to any forfeiture or penalty for or on account of any act, transaction, matter, or thing concerning which he shall have been compelled, under objection, to testify or produce documentary evidence. No person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

**Source:** This section is derived from Section 1012 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 313. Joint hearings and investigations; reciprocity.**

(a) Joint hearings and investigations.—The commission shall have full power and authority to make joint investigations, hold joint hearings within or without this Commonwealth, and issue joint or concurrent orders in conjunction or concurrence with any official, board, commission, or agency of any state or of the United States, whether in the holding of such investigations or hearings, or in the making of such orders, the commission shall function under agreements or compacts between states or under the concurrent power of states to regulate the interstate commerce, or as an agency of the Federal Government, or otherwise.

(b) Reciprocity.—The commission shall have full power and authority to arrange reciprocity of treatment of public utilities and contract carriers by motor vehicle of this Commonwealth by regulatory bodies, under regulatory laws of other states, and to that end the commission is hereby vested with power to impose upon public utilities and contract carriers by motor vehicle of other states, the same penalties, restrictions, and regulations as are imposed by the regulatory body of such other states upon public utilities and contract carriers by motor vehicle of this Commonwealth when operating into, out of, or through such other states.

**Source:** This section is derived from Section 913 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 314. Investigation of interstate rates, facilities and service.**

The commission may investigate the interstate rates, traffic facilities, or service of any public utility within this Commonwealth, and when such rates, facilities or service are, in the determination of the commission, unjust, unreasonable, discriminatory or in violation of any Federal law, or in conflict with the rulings, orders or regulations of any Federal regulatory body, the commission may apply, by petition to the proper Federal regulatory body, for relief, or may present to the proper Federal regulatory body all facts coming to its knowledge as to the violation of the rules, orders, or regulations of such regulatory body, or as to the violation of the particular Federal law.

**Source:** This section is derived from Section 914 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 315. Burden of proof.**

(a) Reasonableness of rates.—In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

(b) Compliance with commission determinations and orders.—In any case involving any alleged violation by a public utility, contract carrier by motor vehicle, or broker of any lawful determination or order of the commission, the burden of proof shall be upon the public utility, contract carrier by motor vehicle, or broker complained against, to show that the determination or order of the commission has been complied with.

(c) Adequacy of services and facilities.—In any proceeding upon the motion of the commission, involving the service or facilities of any public utility, the burden of proof to show that the service and facilities involved are adequate, efficient, safe, and reasonable shall be upon the public utility.

(d) Justification of accounting entries.—The burden of proof to justify every accounting entry questioned by the commission shall be upon the public utility making, authorizing, or requiring such entry, and the commission may suspend any charge or credit pending submission of such proof by such public utility.

**Source:** Subsection (a) is derived from Section 312 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsections (b), (c) and (d) are derived from Sections 921, 420 and 505, respectively, of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 316. Effect of commission action.**

Whenever the commission shall make any rule, regulation, finding, determination or order under the provisions of this title, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified in an appeal taken as provided by law.

**Source:** This section is derived from Section 1112 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 317. Fees for services rendered by commission.**

The commission shall charge and collect the following fees for the following services:

For copies of papers, testimony, and records, 75¢ per page.

For certifying a copy of any paper, testimony, or record, \$2.

For preparing and certifying to the court any record in an appeal, \$10.

For the filing of each securities certificate, or each application for a certificate of public convenience, registration certificate, permit, or license, \$10.

**Source:** This section is derived from Section 1202 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 318. Commission to cooperate with other departments.**

(a) Vehicle registration plates.—The Department of Transportation and the commission are hereby authorized and directed to cooperate in the issuance by the Department of Transportation, under the provisions of the act of April 29, 1959 (P.L. 58, No. 32), known as "The Vehicle Code," of registration plates for commercial motor vehicles, which will classify and identify motor vehicles operated under certificates or permits issued by the commission, without the necessity of the requirement of separate identification



plates in addition to registration plates required under "The Vehicle Code."

(b) Purity of water supply.—The commission may certify to the Department of Health any question of fact regarding the purity of water supplied to the public by any public service company or public utility over which it has jurisdiction, when any such question arises in any controversy or other proceeding before it, and upon the determination of such question by the Department of Health incorporate the department's findings in its decision.

(c) Powers of certain governmental agencies unaffected.—Nothing in this title shall be construed to impair the powers and duties of the Department of Community Affairs in the exercise of the general supervision over railroads, canals and other transportation companies vested in it by the laws of this Commonwealth, nor shall this title, or any provision therein, be construed to deprive the Department of Health or the Department of Environmental Resources of any jurisdiction, powers or duties now vested in them.

**Source:** Subsection (a) is derived from Section 922 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsection (b) is derived from Section 11 of the act of 1937, March 31, P.L. 160. Subsection (c) is derived from Section 919 of the Public Utility Law, 1937, May 28, P.L. 1053.

## PART II

### COMMISSION POWERS, DUTIES, PRACTICES AND PROCEDURES

#### Chapter

5. Powers and Duties
7. Procedure on Complaints
9. Review and Appeals

### CHAPTER 5

#### POWERS AND DUTIES

#### Sec.

501. General powers.
502. Enforcement proceedings by commission.
503. Enforcement proceedings by Attorney General.
504. Reports by public utilities.
505. Duty to furnish information to commission; cooperation in valuing property.

- 506. Inspection of facilities and records.
- 507. Designation of statutory agent.
- 508. Contracts between public utilities and municipalities.
- 509. Power of the commission to vary, reform and revise contracts.
- 510. Regulation of manufacture, sale or lease of appliances; fees.
- 511. Assessment for regulatory expenses upon public utilities.
- 512. Disposition, appropriation and disbursement of assessments and fees.
- 513. Power of commission to require insurance.
- 514. Public letting of contracts.

### § 501. General powers.

(a) Enforcement of provisions of title.—In addition to any powers expressly enumerated in this title, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this title, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this title shall not exclude any power which the commission would otherwise have under any of the provisions of this title.

(b) Administrative authority and regulations.—The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.

**Source:** This section is derived from Sections 901 and 902 of the Public Utility Law, 1937, May 28, P.L. 1053, and Section 10 of the act of 1937, March 31, P.L. 160.

**Comment:** In addition to the comprehensive authority contained in this section and specific grants of authority otherwise provided in this title, the commission has been granted specific authority under other legislation; for example, see the Retail Electric Supplier Unincorporated Area Certified Territory Act, 1975, July 30, Act No. 57.

### § 502. Enforcement proceedings by commission.

Whenever the commission shall be of opinion that any person or corporation, including a municipal corporation, is violating, or is about to violate, any provisions of this title; or has done, or is about

to do, any act, matter, or thing herein prohibited or declared to be unlawful; or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform any duty enjoined upon it by this title, or has failed, omitted, neglected or refused, or is about to fail, omit, neglect, or refuse to obey any lawful requirement, regulation or order made by the commission; or any final judgment, order, or decree made by any court, then and in every such case the commission may institute in the Commonwealth Court, injunction, mandamus, or other appropriate legal proceedings, to restrain such violations of the provisions of this title, or of the regulations, or orders of the commission, and to enforce obedience thereto; and such court is hereby clothed with exclusive jurisdiction throughout this Commonwealth to hear and determine all such actions. No injunction bond shall be required to be filed by the commission. Such persons, corporations, or municipal corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding, or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief.

**Source:** This section is derived from Section 903 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** The statewide jurisdiction of the Dauphin County Court of Common Pleas was transferred to the Commonwealth Court: see The Commonwealth Court Act, 1970, January 6, P.L. (1969) 434, Act No. 185, Section 14 (55); also see the Appellate Court Jurisdiction Act, 1970, July 31, P.L. 673, Act No. 223, Sections 401 and 403 (1).

### **§ 503. Enforcement proceedings by Attorney General.**

The Attorney General, in addition to the exercise of the powers and duties now conferred upon him by law, shall also, upon request of the commission, or upon his own motion, proceed in the name of the Commonwealth, by mandamus, injunction, or quo warranto, or other appropriate remedy at law or, in equity, to restrain violations of the provisions of this title, or of the regulations or orders of the commission, or the judgments, orders, or decrees of any court, or to enforce obedience thereto.

**Source:** This section is derived from Section 904 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 504. Reports by public utilities.**

The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce. The commission may require any public utility to file with it a copy of any report filed by such public utility with any Federal department or regulatory body. All reports shall be under oath or affirmation when required by the commission.

**Source:** This section is derived from Section 905 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 505. Duty to furnish information to commission; cooperation in valuing property.**

Every public utility shall furnish to the commission, from time to time, and as the commission may require, all accounts, inventories, appraisals, valuations, maps, profiles, reports of engineers, books, papers, records, and other documents or memoranda, or copies of any and all of them, in aid of any inspection, examination, inquiry, investigation, or hearing, or in aid of any determination of the value of its property, or any portion thereof, and shall cooperate with the commission in the work of the valuation of its property, or any portion thereof, and shall furnish any and all other information to the commission, as the commission may require, in any inspection, examination, inquiry, investigation, hearing, or determination of such value of its property, or any portion thereof.

**Source:** This section is derived from Sections 507 and 906 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 506. Inspection of facilities and records.**

The commission shall have full power and authority, either by or through its members, or duly authorized representatives, whenever it shall deem it necessary or proper in carrying out any of the provisions of, or its duties under this title, to enter upon the premises, buildings, machinery, system, plant, and equipment, and make any inspection, valuation, physical examination, inquiry, or investigation of any and all plant and equipment, facilities, property, and pertinent records, books, papers, accounts, maps, inventories, appraisals, valuations, memoranda, documents, or effects whatsoever, of any public utility, or prepared or kept for it by others, and to hold

any hearing for such purposes. In the performance of such duties, the commission may have access to, and use any books, records, or documents in the possession of, any department, board, or commission of the Commonwealth, or any political subdivision thereof.

**Source:** This section is derived from Sections 507 and 908 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 507. Designation of statutory agent.**

Every public utility, contract carrier by motor vehicle, and broker shall file with the commission a designation in writing of the name and post office address of a person within this Commonwealth upon whom service of any notice, order, or process may be made under this title. Such designation may, from time to time, be changed by like writing similarly filed.

**Source:** This section is derived from Section 910 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 508. Contracts between public utilities and municipalities.**

Except for a contract between a public utility and a municipal corporation to furnish service at the regularly filed and published tariff rates, no contract or agreement between any public utility and any municipal corporation shall be valid unless filed with the commission at least 30 days prior to its effective date. Upon notice to the municipal authorities, and the public utility concerned, the commission may, prior to the effective date of such contract or agreement, institute proceedings to determine the reasonableness, legality or any other matter affecting the validity thereof. Upon the institution of such proceedings, such contract or agreement shall not be effective until the commission grants its approval thereof.

**Source:** This section is derived from Section 911 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 509. Power of commission to vary, reform and revise contracts.**

The commission shall have power and authority to vary, reform, or revise, upon a fair, reasonable, and equitable basis, any obligations, terms, or conditions of any contract heretofore or hereafter entered into between any public utility and any person, corporation, or municipal corporation, which embrace or concern a public right, benefit, privilege, duty, or franchise, or the grant thereof, or are

otherwise affected or concerned with the public interest and the general well-being of the Commonwealth. Whenever the commission shall determine, after reasonable notice and hearing, upon its own motion or upon complaint, that any such obligations, terms, or conditions are unjust, unreasonable, inequitable, or otherwise contrary or adverse to the public interest and the general well-being of this Commonwealth, the commission shall determine and prescribe, by findings and order, the just, reasonable, and equitable obligations, terms, and conditions of such contract. Such contract, as modified by the order of the commission, shall become effective 30 days after service of such order upon the parties to such contract.

**Source:** This section is derived from Section 920 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 510. Regulation of manufacture, sale or lease of appliances; fees.**

(a) Regulation.—It is unlawful for any public utility engaged in the manufacture, sale, or lease of any appliance or equipment offered by such public utility for sale to the public to:

(1) Discontinue service to any consumer for failure of such consumer to pay the whole, or any installment, of the purchase price, or rental, of any appliance or equipment sold to such consumer.

(2) Apply to the purchase price or rental, or any part thereof, of any appliance or equipment purchased by, or leased to, a consumer of the service of the public utility, any deposit or other moneys of the consumer in the possession of the public utility. This restriction does not apply to any claims of the public utility against such consumer when such claims arise from damages to meters or other facilities used to measure and ascertain the quantity of service rendered by the public utility.

(3) Employ in the manufacture, sale, or lease of any such appliance or equipment, any property used in, or revenue derived from, the rendering of service to the public, unless separate accounts as to the property used and the costs incurred by, and the revenue derived from, the manufacture, lease, or sale of such appliance or equipment are adopted, used, and kept by the public utility.

(4) Employ in the manufacture, sale, or lease of any such ap-

pliance or equipment, the service of any officer or employee engaged in rendering service to the public, unless separate accounts as to the amount paid to such officer or employee, while engaged in the manufacture, lease or sale of such appliance or equipment, and whether any amount be salary, bonus, commission, or expense are adopted, used, and kept by the public utility.

(b) Fees for testing.—The commission shall charge and collect from public utilities for the testing of their instruments of precision and measuring apparatus the following fees:

For testing each watthour meter, \$16.

For testing each indicating instrument, \$10.

For testing each instrument transformer, \$10.

For testing each standard cell, \$5.

For testing each standard resistance, \$10.

For testing each potentiometer, \$50.

For testing each gas meter prover, \$35.

For testing each calorimeter tested at the gas company's plant, \$35.

For testing each calorimeter tested at the commission laboratory, \$10.

For each water meter testing apparatus tested at the company's plant, \$15.

For each water meter tested at the commission laboratory, \$3.

**Source:** Subsection (1) is derived from Section 912 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsection (b) is derived from Section 1203 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** For authority of the commission to establish standards and prescribe regulations for the examination and testing of measuring devices, see Sections 1504 and 1507, *infra*.

### **§ 511. Assessment for regulatory expenses upon public utilities.**

(a) Determination of total assessment.—Before July 1 of each year, the commission shall estimate its total expenditures in the administration of this title for the fiscal year beginning that date, which estimate shall not exceed two-tenths of 1% of the total gross intrastate operating revenues of the public utilities under its jurisdiction for the preceding calendar year. Such estimate shall be submitted to the Governor, and to the appropriation committees of the House and Senate through their respective chairmen, for their

respective approvals of such estimate in the amount submitted or such lesser amount as each of them may determine. Unless the Governor, or either committee through its chairman, shall notify the commission in writing of his or its action within 30 days after such submission, the estimate as submitted shall be deemed approved by him or by the committee. The least of the amounts so approved by the three approving authorities shall be the final estimate; and approval of such least amount shall constitute compliance with section 604 of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929." The commission shall subtract from the final estimate:

(1) the estimated fees to be collected pursuant to sections 317 (relating to fees for services rendered by commission) and 510 (b) (relating to regulation of manufacture, sale or lease of appliances; fees) during such fiscal year; and

(2) the estimated balance of the appropriation, specified in section 512 (relating to disposition, appropriation and disbursement of assessments and fees), to be carried over into such fiscal year from the preceding one.

The remainder so determined, herein called the total assessment, shall be allocated to, and paid by, such public utilities in the manner prescribed in this title.

(b) Allocation of assessment.—On or before March 31 of each year, every public utility shall file with the commission a statement under oath showing its gross intrastate operating revenues for the preceding calendar year. If any public utility shall fail to file such statement on or before March 31, the commission shall estimate such revenues, which estimate shall be binding upon the public utility for the purposes of this section. For each fiscal year, the allocation shall be made as follows:

(1) The commission shall determine for the preceding calendar year the amount of its expenditures directly attributable to the regulation of each group of utilities furnishing the same kind of service, and debit the amount so determined to such group.

(2) The commission shall also determine for the preceding calendar year the balance of its expenditures, not debited as aforesaid, and allocate such balance to each group in the proportion which the gross intrastate operating revenues of such group for



that year bear to the gross intrastate operating revenues of all groups for that year.

(3) The commission shall then allocate the total assessment prescribed by subsection (a) to each group in the proportion which the sum of the debits made to it bears to the sum of the debits made to all groups.

(4) Each public utility within a group shall then be assessed for and shall pay to the commission such proportion of the amount allocated to its group as the gross intrastate operating revenues of the public utility for the preceding calendar year bear to the total gross intrastate operating revenues of its group for that year.

(c) Notice, hearing and payment.—The commission shall give notice by registered or certified mail to each public utility of the amount lawfully charged against it under the provisions of this section, which amount shall be paid by the public utility within 30 days of receipt of such notice, unless the commission specifies on the notices sent to all public utilities an installment plan of payment, in which case each public utility shall pay each installment on or before the date specified therefor by the commission. Within 15 days after receipt of such notice, the public utility against which such assessment has been made may file with the commission objections setting out in detail the grounds upon which the objector regards such assessment to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall hold a hearing upon such objections. After such hearing, the commission shall record upon its minutes its findings on the objections and shall transmit to the objector, by registered or certified mail, notice of the amount, if any, charged against it in accordance with such findings, which amount or any installment thereof then due, shall be paid by the objector within ten days after receipt of notice of the findings of the commission with respect to such objections. If any payment prescribed by this subsection is not made as aforesaid, the commission may suspend or revoke certificates of public convenience, certify automobile registrations to the Department of Transportation for suspension or revocation or, through the Department of Justice, may institute an appropriate action at law for the amount lawfully assessed, together with any additional cost incurred by the commission or the Department of Justice by virtue of such failure to pay.

(d) Suits by public utilities.—No suit or proceeding shall be main-

tained in any court for the purpose of restraining or in anywise delaying the collection or payment of any assessment made under subsections (a), (b) and (c), but every public utility against which an assessment is made shall pay the same as provided in subsection (c). Any public utility making any such payment may, at any time within two years from the date of payment, sue the Commonwealth in an action at law to recover the amount paid, or any part thereof, upon the ground that the assessment was excessive, erroneous, unlawful, or invalid, in whole or in part, provided objections, as hereinbefore provided, were filed with the commission, and payment of the assessment was made under protest either as to all or part thereof. In any action for recovery of any payments made under this section, the claimant shall be entitled to raise every relevant issue of law, but the findings of fact made by the commission, pursuant to this section, shall be prima facie evidence of the facts therein stated. Any records, books, data, documents, and memoranda relating to the expenses of the commission shall be admissible in evidence in any court and shall be prima facie evidence of the truth of their contents. If it is finally determined in any such action that all or any part of the assessment for which payment was made under protest was excessive, erroneous, unlawful, or invalid, the commission shall make a refund to the claimant out of the appropriation specified in section 512 as directed by the court.

(e) Certain provisions not applicable.—The provisions of this title relating to the judicial review of orders and determinations of the commission shall not be applicable to any findings, determinations, or assessments made under this section.

(f) Intent of section.—It is the intent and purpose of this section that each public utility subject to this title shall advance to the commission its reasonable share of the cost of administering this title. The commission shall keep records of the costs incurred in connection with the administration and enforcement of this title or any other act. The commission shall also keep a record of the manner in which it shall have computed the amount assessed against every public utility. Such records shall be open to inspection by all interested parties. The determination of such costs and assessments by the commission, and the records and data upon which the same are made, shall be considered prima facie correct; and in any proceeding instituted to challenge the reasonableness or correctness of any assessment under this section, the party challenging the same shall have the burden of proof.

(g) Saving provision.—This section does not affect or repeal any of the provisions of the act of July 31, 1968 (P.L. 769, No. 240), known as the “Commonwealth Documents Law.”

**Source:** This section is derived from Section 1201 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 512. Disposition, appropriation and disbursement of assessments and fees.**

(a) Payment into General Fund.—All assessments and fees received, collected or recovered under this chapter shall be paid by the commission into the General Fund of the State Treasury through the Department of Revenue.

(b) Use and appropriation of funds.—All such assessments and fees, having been advanced by public utilities for the purpose of defraying the cost of administering this title, shall be held in trust solely for that purpose, and shall be earmarked for the use of, and are hereby appropriated to, the commission for disbursement solely for that purpose.

(c) Requisition of funds.—All requisitions upon such appropriation shall be signed by the chairman and secretary of the commission, or such deputies as they may designate in writing to the State Treasurer, and shall be presented to the State Treasurer and dealt with by him and the Treasury Department in the manner prescribed by the act of April 9, 1929 (P.L. 343, No. 176), known as “The Fiscal Code.”

**Source:** This section is derived from Section 1204 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 513. Power of commission to require insurance.**

The commission may, as to motor carriers, prescribe, by regulation or order, such requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance, or the qualifications and conditions under which such carriers may act as self-insurers with respect to such matters. All motor carriers of passengers, whose current liquid assets do not exceed their current liabilities by at least \$100,000, shall cover each and every vehicle, transporting such passengers, with a public liability insurance policy or a surety bond issued by an insurance carrier or a bonding

company authorized to do business in this Commonwealth, in such amounts as the commission may prescribe, but not less than \$5,000 for one and \$10,000 for more than one person injured in any one accident.

**Source:** This section is derived from Section 915 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 514. Public letting of contracts.**

Whenever the commission deems that the public interest so requires, it may direct, by regulation or order, that any public utility shall award contracts or agreements for the construction, improvement, or extension, of its plant or system to the lowest responsible bidder, after a public offering has been made, after advertisement and notice. Any such public utility may participate as a bidder in any such public offering. The commission may prescribe regulations relative to such advertisement, notice, and public letting.

**Source:** This section is derived from Section 417 of the Public Utility Law, 1937, May 28, P.L. 1053.

**CHAPTER 7  
PROCEDURE ON COMPLAINTS**

Sec.

701. Complaints.

702. Service of complaints on parties.

703. Fixing of hearings.

**§ 701. Complaints.**

The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. Any public utility, or other person, or corporation likewise may complain of any regulation or order of the commission, which the complainant is or has been required by the commission to observe or carry into effect. The commission may prescribe the form of complaints filed under this section.

**Source:** This section is derived from Section 1001 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 702. Service of complaints on parties.

Upon the filing of a complaint, the commission shall serve upon each party named in the complaint a copy of the complaint and notice from the commission calling upon such party to satisfy the complaint, or to answer the same in writing, within such time as is specified by the commission in the notice. Service in all hearings, investigations and proceedings pending before the commission shall be made by registered or certified mail.

**Source:** This section is derived from Sections 1002 and 1014 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 703. Fixing of hearings.

(a) Satisfaction of complaint or hearing.—If any party complained against, within the time specified by the commission, shall satisfy the complaint, the commission shall dismiss the complaint. Such party shall be relieved from responsibility only for the specific matter complained of. If such party shall not satisfy the complaint within the time specified, and it shall appear to the commission from a consideration of the complaint and answer, or otherwise, that reasonable ground exists for investigating such complaint, it shall be the duty of the commission to fix a time and place for a hearing.

(b) Notice of hearing.—The commission shall fix the time and place of hearing, within or without this Commonwealth, if any is required, and shall serve notice thereof upon parties in interest. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.

(c) Hearing and record.—All hearings before the commission, or its representative, shall be public, and shall be conducted in accordance with such regulations as the commission may prescribe. A full and complete record shall be kept of all proceedings had before the commission, or its representative, on any formal hearing, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney, and to introduce evidence.

(d) Informal hearings.—The commission may, in addition to the hearings specially provided by this title, conduct such other hearings as may be required in the administration of the powers and duties conferred upon it by this title and by other acts relating to public utilities. Reasonable notice of all such hearings shall be given the persons interested therein.

(e) Decisions by commission.—After the conclusion of the hearing, the commission shall make and file its findings and order with its opinion, if any. Its findings shall be in sufficient detail to enable the court on appeal, to determine the controverted question presented by the proceeding, and whether proper weight was given to the evidence. A copy of such order, certified under the seal of the commission, shall be served by registered or certified mail upon the party or parties against whom it runs, or his attorney, and notice thereof shall be given to the other parties to the proceedings or their attorney. Such order shall take effect and become operative as designated therein, and shall continue in force either for a period which may be designated therein, or until changed or revoked by the commission. The commission may grant and prescribe such additional time as, in its judgment, is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

(f) Rehearing.—After an order has been made by the commission, any party to the proceedings may, within 15 days after the service of the order, apply for a rehearing in respect of any matters determined in such proceedings and specified in the application for rehearing, and the commission may grant and hold such rehearing on such matters. No application for a rehearing shall in anywise operate as a supersedeas, or in any manner stay or postpone the enforcement of any existing order, except as the commission may, by order, direct. If the application be granted, the commission may affirm, rescind, or modify its original order.

(g) Rescission and amendment of orders.—The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

**Source:** Subsections (a) and (b) are derived from Section 1003 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsections (c), (d), (e), (f) and (g) are derived from Sections 1004, 1013, 1005, 1006 and 1007, respectively, of the Public Utility Law, 1937, May 28, P.L. 1053.

## CHAPTER 9 REVIEW AND APPEALS

Sec.

901. Appeals to courts.

902. Right to trial by jury.

### § 901. Appeals to courts.

After the service of any order by the commission, unless an application for rehearing is pending and then after the service of the order refusing such application or modifying, amending, rescinding or affirming the original order, any party to the proceeding may appeal therefrom by a petition for review to the Commonwealth Court within such time and in accordance with procedures established in the act of January 6, 1970 (1969 P.L. 434, No. 185), known as "The Commonwealth Court Act," and the Pennsylvania Rules of Appellate Procedure.

**Source:** This section is derived from Section 1101 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 902. Right to trial by jury.

Nothing in this title shall be construed to deprive any party, upon any such appeal and judicial review of the proceedings and orders of the commission, of the right to trial by jury of any issue of fact raised thereby or therein, where such right is secured either by the Constitution of Pennsylvania or the Constitution of the United States, but in every such case such right of trial by jury shall remain inviolate. When any appeal is taken, such right shall be deemed to be waived upon all issues, unless expressly reserved in such manner as shall be prescribed by the court.

**Source:** This section is derived from Section 1110 of the Public Utility Law, 1937, May 28, P.L. 1053.

## PART III REGULATION OF PUBLIC UTILITIES GENERALLY

Chapter

- 11. Certificates of Public Convenience
- 13. Rates and Rate Making
- 15. Service and Facilities

- 17. Accounting and Budgetary Matters
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- 21. Relations with Affiliated Interests

**CHAPTER 11**  
**CERTIFICATES OF PUBLIC CONVENIENCE**

Sec.

- 1101. Organization of public utilities and beginning of service.
- 1102. Enumeration of acts requiring certificate.
- 1103. Procedure to obtain certificates of public convenience.
- 1104. Certain appropriations by right of eminent domain prohibited.

**§ 1101. Organization of public utilities and beginning of service.**

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, it shall be lawful for any such proposed public utility to begin to offer, render, furnish, or supply service within this Commonwealth. The commission's certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.

**Source:** This section is derived from Section 201 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1102. Enumeration of acts requiring certificate.**

(a) General rule.—Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:

(1) For any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by:

(i) A certificate of public convenience granted under this title or under the former provisions of the act of July 26, 1913 (P.L. 1374, No. 854), known as "The Public Service Company Law,"



or the act of May 28, 1937 (P.L. 1053, No. 286), known as the "Public Utility Law."

(ii) An unregistered right, power or privilege preserved by section 103 (relating to prior rights preserved).

(2) For any public utility to abandon or surrender, in whole or in part, any service, except that this provision is not applicable to discontinuance of service to a patron for nonpayment of a bill, or upon request of a patron.

(3) For any public utility, except a common carrier by railroad subject to the Interstate Commerce Act, to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service. Such approval shall not be required if:

(i) the undepreciated book value of the property to be acquired or transferred does not exceed \$1,000;

(ii) the undepreciated book value of the property to be acquired or transferred does not exceed the lesser of:

(A) 2% of the undepreciated book value of all fixed assets of such public utility; or

(B) \$5,000 in the case of personalty or \$50,000 in the case of realty;

(iii) the property to be acquired is to be installed new as a part of or consumed in the operation of the used and useful property of such public utility; or

(iv) the property to be transferred by such public utility is obsolete, worn out or otherwise unserviceable.

Subparagraphs (i) through (iv) shall not be applicable, and approval of the commission evidenced by a certificate of public convenience shall be required, if any such acquisition or transfer of property involves a transfer of patrons.

(4) For any public utility to acquire 5% or more of the voting capital stock of any corporation.

(5) For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.

(b) Protection of railroad employees—As a condition of its approval of any transaction covered by this section and involving those railroad carriers wholly located within this Commonwealth subject to the provisions of this title, the commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected and the commission shall include in its order of approval the terms and conditions it deems fair and equitable for the protection of the employees. The terms and conditions which the commission prescribes shall provide that, during the period of four years from the effective date of the order, the employees of the railroad carrier affected by the order shall not be in a worse position with respect to their employment except that any protection afforded an employee shall not be required to continue for a period longer than that during which the employee was in the employ of the railroad carrier prior to the effective date of the order. Notwithstanding any other provision of this section, the commission may accept as fair and equitable an agreement pertaining to the protection of the interests of the employees entered into by the railroad carrier and the duly authorized representatives of the employees.

**Source:** This section is derived from Section 202 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1103. Procedure to obtain certificates of public convenience.**

(a) General rule.—Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted. Any holder of a certificate of public convenience, exercising the authority conferred by such certificate, shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

(b) Investigations and hearings.—For the purpose of enabling the commission to make such finding or determination, it shall hold

such hearings, which shall be public, and, before or after hearing, it may make such inquiries, physical examinations, valuations, and investigations, and may require such plan, specifications, and estimates of cost, as it may deem necessary or proper in enabling it to reach a finding or determination.

**Source:** This section is derived from Section 203 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1104. Certain appropriations by right of eminent domain prohibited.**

Unless its power of eminent domain existed under prior law, no domestic public utility or foreign public utility authorized to do business in this Commonwealth shall exercise any power of eminent domain within this Commonwealth until it shall have received the certificate of public convenience required by section 1101 (relating to organization of public utilities and beginning of service).

**Source:** This section is derived from Section 204 of the Public Utility Law, 1937, May 28, P.L. 1053.

**CHAPTER 13  
RATES AND RATE MAKING**

Sec.

- 1301. Rates to be just and reasonable.
- 1302. Tariffs; filing and inspection.
- 1303. Adherence to tariffs.
- 1304. Discrimination in rates.
- 1305. Advance payment of rates; interest on deposits.
- 1306. Apportionment of joint rates.
- 1307. Sliding scale of rates; adjustments.
- 1308. Voluntary changes in rates.
- 1309. Rates fixed on complaint; investigation of costs of production.
- 1310. Temporary rates.
- 1311. Valuation of property of a public utility.
- 1312. Refunds.
- 1313. Price upon resale of public utility services.

**§ 1301. Rates to be just and reasonable.**

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.

**Source:** This section is derived from Section 301 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1302. Tariffs; filing and inspection.**

Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission. The tariffs of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, so far as practicable, to the form of those prescribed by such Federal regulatory body. Every public utility shall keep copies of such tariffs open to public inspection under such rules and regulations as the commission may prescribe.

**Source:** This section is derived from Section 302 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1303. Adherence to tariffs.**

No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this title. Any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.

**Source:** This section is derived from Section 303 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1304. Discrimination in rates.**

No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. Unless specifically authorized by the commission, no public utility shall make, demand, or receive any greater rate in the aggregate for the transportation of passengers or property of the same class, or for the transmission of any message or conversation for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or any greater rate as a through rate than the aggregate of the intermediate rates. This section does not prohibit the establishment of reasonable zone or group systems, or classifications of rates or, in the case of common carriers, the issuance of excursion, commutation, or other special tickets at special rates, or the granting of nontransferable free passes, or passes at a discount to any officer, employee, or pensioner of such common carrier. No rate charged by a municipality for any public utility service rendered or furnished beyond its corporate limits shall be considered unjustly discriminatory solely by reason of the fact that a different rate is charged for a similar service within its corporate limits.

**Source:** This section is derived from Section 304 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1305. Advance payment of rates; interest on deposits.**

No public utility shall require the payment of rates in advance, or the making of minimum payments, ready to serve charges, or deposits to secure future payments of rates, except as the commission, by regulation or order, may permit. Any deposit made by any domestic consumer, under the provisions of this section or under any act repealed by this title, shall be returned with any interest due thereon to the consumer making such deposit when he shall have paid undisputed bills for service over a period of 12 consecutive months.

**Source:** This section is derived from Section 305 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1306. Apportionment of joint rates.**

Where public utilities entitled to share in any joint rate shall be unable to agree upon the division thereof, or shall make any unjust or unreasonable division or apportionment thereof, the commission may, after hearing, upon its own motion or upon complaint, fix the proportion to which each public utility shall be entitled.

**Source:** This section is derived from Section 306 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1307. Sliding scale of rates; adjustments.**

(a) General rule.—Any public utility, except a common carrier, may establish a sliding scale of rates or such other method for the automatic adjustment of the rates of the public utility as shall provide a just and reasonable return on the fair value of the property used and useful in the public service, to be determined upon such equitable or reasonable basis as shall provide such fair return. A tariff showing the scale of rates under such arrangement shall first be filed with the commission, and such tariff, and each rate set out therein, approved by it. The commission may revoke its approval at any time and fix other rates for any such public utility if, after notice and hearing, the commission finds the existing rates unjust or unreasonable.

(b) Mandatory system for automatic adjustment.—The commission, by regulation or order, upon reasonable notice and after hearing, may prescribe for any class of public utilities, except a common carrier, a mandatory system for the automatic adjustment of their rates, by means of a sliding scale of rates or other method, on the same basis as provided in subsection (a), to become effective when and in the manner prescribed in such regulation or order. Every such public utility shall, within such time as shall be prescribed by the commission, file tariffs showing the rates established in accordance with such regulation or order.

(c) Fossil fuel cost adjustment.—In any method automatically adjusting rates to reflect changes in fossil fuel cost under this section, the fuel cost used in computing the adjustment shall be limited, in the case of an electric utility, to the cost of such fuel delivered to the utility at the generating site at which it is to be consumed, and the cost of disposing of solid waste from scrubbers or other devices designed so that the consumption of Pennsylvania-mined coal at the generating site would comply with the sulfur

oxide emission standards prescribed by the Commonwealth. The cost of fuel handling after such delivery, or of waste disposal, other than as prescribed in this section, shall be excluded from such computation.

**Source:** This section is derived from Section 307 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1308. Voluntary changes in rates.**

(a) General rule.—Unless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after 60 days notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The public utility shall also give such notice of the proposed changes to other interested persons as the commission in its discretion may direct. All proposed changes shall be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time. The commission, for good cause shown, may allow changes in rates, without requiring the 60 days notice, under such conditions as it may prescribe.

(b) Hearing and suspension of rate change.—Whenever there is filed with the commission by any public utility any tariff stating a new rate, the commission may, either upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, and pending such hearing and the decision thereon, the commission, upon filing with such tariff and delivering to the public utility affected thereby a statement in writing of its reasons therefor, may, at any time before it becomes effective, suspend the operation of such rate for a period not longer than six months from the time such rate would otherwise become effective, and an additional period of not more than three months pending such decision. The rate in force when the tariff stating the new rate was filed shall continue in force during the period of suspension, unless the commission shall establish a temporary rate as authorized in section 1310 (relating to temporary rates). The commission shall consider the effect of such suspension in finally determining and prescribing the rates to be thereafter charged and collected by such public utility.

(c) Determination.—If, after such hearing, the commission finds any such rate to be unjust or unreasonable, or in anywise in viola-

tion of law, the commission shall determine the just and reasonable rate to be charged or applied by the public utility for the service in question, and shall fix the same by order to be served upon the public utility.

**Source:** This section is derived from Section 308 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1309. Rates fixed on complaint; investigation of costs of production.**

Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the existing rates of any public utility for any service are unjust, unreasonable, or in anywise in violation of any provision of law, the commission shall determine the just and reasonable rates, including maximum or minimum rates, to be thereafter observed and in force, and shall fix the same by order to be served upon the public utility, and such rates shall constitute the legal rates of the public utility until changed as provided in this title. Whenever a public utility does not itself produce or generate that which it distributes, transmits, or furnishes to the public for compensation, but obtains the same from another source, the commission shall have the power and authority to investigate the cost of such production or generation in any investigation of the reasonableness of the rates of such public utility.

**Source:** This section is derived from Section 309 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1310. Temporary rates.**

(a) General rule.—The commission may, in any proceeding involving the rates of a public utility brought either upon its own motion or upon complaint, after reasonable notice and hearing, if it be of opinion that the public interest so requires, immediately fix, determine, and prescribe temporary rates to be charged by such public utility, pending the final determination of such rate proceeding. Such temporary rates, so fixed, determined, and prescribed, shall be sufficient to provide a return of not less than 5% upon the original cost, less accrued depreciation, of the physical property, when first devoted to public use, of such public utility, used and useful in the public service, and if the duly verified reports of such public utility to the commission do not show such original cost, less accrued depreciation, of such property, the commission may esti-



mate such cost less depreciation and fix, determine, and prescribe rates as hereinbefore provided.

(b) Exception where records unavailable.—If any public utility does not have continuing property records, kept in the manner prescribed by the commission under the provisions of section 1702 (relating to continuing property records), then the commission, after reasonable notice and hearing, may establish temporary rates which shall be sufficient to provide a return of not less than an amount equal to the operating income for such prior calendar or fiscal year as the commission may deem proper, to be determined on the basis of data appearing in the annual report of such public utility to the commission for such prior year as the commission may deem proper, plus or minus such return as the commission may prescribe from time to time upon such net changes of the physical property as are reported to and approved for rate-making purposes by the commission. In determining the net changes of the physical property, the commission may, in its discretion, deduct from gross additions to such physical property the amount charged to operating expenses for depreciation or, in lieu thereof, it may determine such net changes by deducting retirements from the gross additions. The commission, in determining the basis for temporary rates, may make such adjustments in the annual report data as may, in the judgment of the commission, be necessary and proper.

(c) Periodicity of rates.—The commission may fix, determine, and prescribe temporary rates every month, or at any other interval, if it be of opinion that the public interest so requires, and the existence of proceedings begun for the purpose of establishing final rates shall not prevent the commission from changing every month, or at any other interval, such temporary rates as it has previously fixed, determined, and prescribed.

(d) Excessive rates.—Whenever the commission, upon examination of any annual or other report, or of any papers, records, books, or documents, or of the property of any public utility, shall be of opinion that any rates of such public utility are producing a return in excess of a fair return upon the fair value of the property of such public utility, used and useful in its public service, the commission may, by order, prescribe for a trial period of at least six months, which trial period may be extended for one additional period of six months, such temporary rates to be observed by such public utility as, in the opinion of the commission, will produce a fair return upon such fair value, and the rates so prescribed shall become effective

upon the date specified in the order of the commission. Such rates, so prescribed, shall become permanent at the end of such trial period, or extension thereof, unless at any time during such trial period, or extension thereof, the public utility involved shall complain to the commission that the rates so prescribed are unjust or unreasonable. Upon such complaint, the commission, after hearing, shall determine the issues involved, and pending final determination the rates so prescribed shall remain in effect.

(e) Effect and adjustment of rates.—Temporary rates so fixed, determined, and prescribed under this section shall be effective until the final determination of the rate proceeding, unless terminated sooner by the commission. In every proceeding in which temporary rates are fixed, determined, and prescribed under this section, the commission shall consider the effect of such rates in fixing, determining, and prescribing rates to be thereafter demanded or received by such public utility on final determination of the rate proceeding. If, upon final disposition of the issues involved in such proceeding, the rates as finally determined, are in excess of the rates prescribed in such temporary order, then such public utility shall be permitted to amortize and recover, by means of a temporary increase over and above the rates finally determined, such sum as shall represent the difference between the gross income obtained from the rates prescribed in such temporary order and the gross income which would have been obtained under the rates finally determined if applied during the period such temporary order was in effect.

**Source:** This section is derived from Section 310 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1311. Valuation of property of a public utility.**

The commission may, after reasonable notice and hearing, ascertain and fix the fair value of the whole or any part of the property of any public utility, in so far as the same is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the fair value of all new construction, extensions, and additions to the property of any public utility. When any public utility furnishes more than one of the different types of utility service, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the property of such public utility for the purpose of fixing rates. In fixing any rate of a public utility engaged exclu-

sively as a common carrier by motor vehicle, the commission may, in lieu of other standards established by law, fix the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to operating revenues.

**Source:** This section is derived from Section 311 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 1312. Refunds.

(a) General rule.—If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within two years prior to the date of the filing of the complaint, together with interest at the legal rate from the date of each such excessive payment. In making a determination under this section, the commission need not find that the rate complained of was extortionate or oppressive. Any order of the commission awarding a refund shall be made for and on behalf of all patrons subject to the same rate of the public utility. The commission shall state in any refund order the exact amount to be paid, the reasonable time within which payment shall be made, and shall make findings upon pertinent questions of fact.

(b) Suit for refund.—If the public utility fails to make refunds within the time for payment fixed by any final order of the commission or court, any patron entitled to any refund may sue therefor in any court of common pleas of this Commonwealth, and the findings and order made by the commission shall be prima facie evidence of the facts therein stated, and that the amount awarded is justly due the plaintiff in such suit, and the defendant public utility shall not be permitted to avail itself of the defense that the service was, in fact, rendered to the plaintiff at the rate contained in its tariffs in force at the time payment was made and received, nor shall the defendant public utility be permitted to avail itself of the defense that the rate was reasonable. Any patron entitled to any refund shall be entitled to recover, in addition to the amount of refund, a penalty of 50% of the amount of such refund, together with

all court costs and reasonable attorney fees. No suit may be maintained for a refund unless instituted within one year from the date of the order of the commission or court. Any number of patrons entitled to such refund may join as plaintiffs and recover their several claims in a single action, in which action the court shall render a judgment severally for each plaintiff as his interest may appear.

(c) Condition for suit.—No action shall be brought in any court for a refund, unless and until the commission shall have determined that the rate in question was unjust or unreasonable, or in violation of any regulation or order of the commission, or in excess of the applicable rate contained in an existing and effective tariff, and then only to recover such refunds as may have been awarded and directed to be paid by the commission in such order.

**Source:** This section is derived from Section 313 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1313. Price upon resale of public utility services.**

Whenever any person, corporation or other entity, not a public utility, electric cooperative corporation, municipality authority or municipal corporation, purchases service from a public utility and resells it to consumers, the bill rendered by the reseller to any residential consumer shall not exceed the amount which the public utility would bill its own residential consumers for the same quantity of service under the residential rate of its tariff then currently in effect.

**Source:** This section is derived from Section 1 of the act of March 28, 1972, P.L. 158.

**CHAPTER 15  
SERVICE AND FACILITIES**

Sec.

- 1501. Character of service and facilities.
- 1502. Discrimination in service.
- 1503. Days discontinuance of service is prohibited.
- 1504. Standards of service and facilities.
- 1505. Proper service and facilities established on complaint.
- 1506. Copies of service contracts, etc., to be filed with commission.
- 1507. Testing of appliances for measurement of service.
- 1508. Reports of accidents.

**§ 1501. Character of service and facilities.**

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this title and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility.

**Source:** This section is derived from Section 401 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1502. Discrimination in service.**

No public utility shall, as to service, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to service, either as between localities or as between classes of service, but this section does not prohibit the establishment of reasonable classifications of service.

**Source:** This section is derived from Section 402 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1503. Days discontinuance of service is prohibited.**

Except when required to prevent or alleviate an emergency as defined by the commission, and except in the case of danger to life or property, no public utility, as defined in paragraph (1) (i), (ii), (v) or (vii) of the definition of "public utility" in section 102 (relating to definitions), shall discontinue, and the commission shall not authorize such a public utility to discontinue, except upon request of the customer, for nonpayment of charges or for any other reason, the rendering of service during the following periods:

- (1) On Friday, Saturday or Sunday.

(2) On a bank holiday or on the day preceding a bank holiday.

(3) On a holiday observed by the public utility or on the day preceding such holiday. A holiday observed by a public utility shall mean any day on which the business office of the public utility is closed to observe a legal holiday, to attend public utility meetings or functions or for any other reason.

(4) On a holiday observed by the commission or on the day preceding such holiday.

**Source:** This section is derived from Section 402.1 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 1504. Standards of service and facilities.**

The commission may, after reasonable notice and hearing, upon its own motion or upon complaint:

(1) Prescribe as to service and facilities, including the crossing of facilities, just and reasonable standards, classifications, regulations and practices to be furnished, imposed, observed and followed by any or all public utilities.

(2) Prescribe adequate and reasonable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the service of any and all public utilities.

(3) Prescribe reasonable regulations for the examination and testing of such service, and for the measurement thereof.

(4) Prescribe or approve reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement.

(5) Provide for the examination and testing of any and all appliances used for the measurement of any service of any public utility.

**Source:** This section is derived from Section 412 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** For the fees for examination and testing of measuring devices, see Section 510(b), *supra*.

#### **§ 1505. Proper service and facilities established on complaint.**

Whenever the commission, after reasonable notice and hearing,

upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this title, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public.

**Source:** This section is derived from Section 413 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1506. Copies of service contracts, etc., to be filed with commission.**

Any public utility shall, when required by the commission, file with the commission verified copies of any and all contracts, writings, agreements, leases, arrangements, or other engagements, in relation to its public service, entered into by such public utility with any person, corporation, State Government, or the Federal Government, or any branch or subdivision thereof, or any other public utility.

**Source:** This section is derived from Section 414 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 1507. Testing of appliances for measurement of service.**

Every public utility, furnishing service upon meter or other similar measurement, shall provide, and keep in and upon the premises of such public utility, suitable and proper apparatus, to be approved from time to time and stamped or marked by the commission, for testing and proving the accuracy of meters furnished by such public utility for use; and by which apparatus every meter may be tested, upon the written request of the consumer to whom the same shall be furnished, and in the presence of the consumer, if he shall so desire. If the meter so tested shall be found to be accurate, within such commercially reasonable limits as the commission may fix for such meters, a reasonable fee, to be fixed by the commission, sufficient to cover the cost of such test, shall be paid by the consumer requiring such test; but, if not so found, then the cost thereof shall be borne by the public utility furnishing the meter.

**Source:** This section is derived from Section 415 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** Also see Sections 510(b) and 1504, *supra*.

**§ 1508. Reports of accidents.**

Every public utility shall give immediate notice to the commission of the happening of any accident in or about, or in connection with, the operation of its service and facilities, wherein any person shall have been killed or injured, and furnish such full and detailed report of such accident, within such time and in such manner as the commission shall require. Such report shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report.

**Source:** This section is derived from Section 416 of the Public Utility Law, 1937, May 28, P.L. 1053.

**CHAPTER 17**  
**ACCOUNTING AND BUDGETARY MATTERS**

Sec.

- 1701. Mandatory systems of accounts.
- 1702. Continuing property records.
- 1703. Depreciation accounts; reports.
- 1704. Records and accounts to be kept in Commonwealth.
- 1705. Budgets of public utilities.
- 1706. Applicability to municipal corporations.

**§ 1701. Mandatory systems of accounts.**

The commission may, after reasonable notice and hearing, establish systems of accounts, including cost finding procedures, to be kept by public utilities, or may classify public utilities and establish a system of accounts for each class, and prescribe the manner and form in which such accounts shall be kept. Every public utility shall establish such systems of accounting, and shall keep such accounts in the manner and form required by the commission. The accounting system of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, as far as practicable, to the system prescribed by such Federal regulatory body. The commission may require any such public utility to keep and maintain



supplemental or additional accounts to those required by any such regulatory body.

**Source:** This section is derived from Section 501 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 1702. Continuing property records.

The commission may require any public utility to establish, provide, and maintain as a part of its system of accounts, continuing property records, including a list or inventory of all the units of tangible property used or useful in the public service, showing the current location of such property units by definite reference to the specific land parcels upon which such units are located or stored. The commission may require any public utility to keep accounts and records in such manner as to show, currently, the original cost of such property when first devoted to the public service, and the reserve accumulated to provide for the depreciation thereof.

**Source:** This section is derived from Section 502 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** For definitions of State taxable value of utility realty, see the Public Utility Realty Tax Act, 1970, March 10, P.L. 168, Act No. 66, Section 2.

### § 1703. Depreciation accounts; reports.

(a) Accounts.—Every public utility shall carry on its books or records of account, proper and reasonable sums representing the annual depreciation on its property used or useful in the public service, which sums shall be based upon the average estimated life of each of the several units or classes of depreciable property. The commission, by appropriate order, after hearing, may establish for each class of public utilities, the units of depreciable property, the loss upon the retirement of which shall be charged to the depreciation reserve.

(b) Statements.—Every public utility shall file with the commission, at such times and in such form as the commission may prescribe, statements setting forth the details supporting its computation of annual depreciation, as recorded on the books or records of accounts of the public utility. If the commission, upon review of such statements, is of the opinion that the amount of annual depreciation so recorded by any public utility is not reasonable and proper, it may, after hearing, require that provision be made for annual depreciation in such sums as may be found by it to be reason-

able and proper. In making its findings, the commission shall give consideration to the experience of the public utility, and the predecessors of the public utility in accumulating depreciation reserves, the retirements actually made, and such other factors as may be deemed relevant.

(c) Use of estimates.—The commission shall not be bound in rate proceedings to accept, as just and reasonable for rate-making purposes, estimates of annual depreciation established under the provisions of this section, but in such rate proceedings it may give consideration to statements submitted under this section, in addition to such other factors as may be relevant.

**Source:** This section is derived from Section 503 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 1704. Records and accounts to be kept in Commonwealth.**

(a) General rule.—Every public utility shall keep such books, accounts, papers, records, and memoranda, as shall be required by the commission, in an office within this Commonwealth, and shall not remove the same, or any of them, from this Commonwealth, except upon such terms and conditions as may be prescribed by the commission.

(b) Exceptions.—This section does not apply to a public utility of another state, engaged in interstate commerce, whose accounts are kept at its principal place of business without this Commonwealth, in the manner prescribed by any Federal regulatory body. Such public utility, when required by the commission, shall furnish to the commission, within such reasonable time as it shall fix, certified copies of its books, accounts, papers, records, and memoranda relating to the business done by such public utility within this Commonwealth.

**Source:** This section is derived from Section 504 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 1705. Budgets of public utilities.**

(a) Proposed budgets; adjustments; determination.—The commission may, by regulation, require any class of public utilities, except common carriers, to file proposed budgets with the commission on or before the first day of each budgetary period, showing the amount of money which each public utility within such class, will in

its judgment, expend during the budgetary period for payment of salaries of executive officers, donations, advertising, lobbying expenses, entertainment, political contributions, expenditures, and major contracts for the sale or purchase of facilities, and all items covering or contemplating any payment to any affiliated interest for advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal, or other services. Adjustments or additions to any such budget may be made from time to time by filing supplementary budgets with the commission. When any such budget or supplemental budget has been filed, the commission may examine into and investigate the same to determine whether any or all of the contemplated expenditures are unreasonable or contrary to the public interest and if after reasonable notice and hearing, it shall so determine, it shall make its findings and order in writing rejecting the same or any part thereof.

(b) Rejected budgets.—Upon such rejection, the public utility concerned shall not make further expenditures or payments under the budget or part thereof rejected, and no expenditures at any time made under such rejected budget, or part thereof, shall be allowed as an operating expense, or capital expenditure in any rate or valuation proceeding, or in any other proceeding or hearing before the commission, unless and until the propriety thereof shall have been established to the satisfaction of the commission, and any such finding or order shall remain in full force and effect, unless and until such finding or order shall be vacated, modified or set aside by the commission, or upon an appeal, as provided in this title.

(c) Use of budgets.—The filing of any budget, its examination, investigation, or determination by the commission, under this section, shall not bar or estop the commission from determining, in any rate valuation or other proceeding, whether any or all of the expenditures made under any budget or supplemental budget are reasonable or commensurate with the service or facilities received.

**Source:** This section is derived from Section 506 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 1706. Applicability to municipal corporations.**

The provisions of sections 505 (relating to duty to furnish information to commission; cooperation in valuing property), 506 (relating to inspection of facilities and records), 1701 (relating to mandatory systems of accounts) and 1703 (relating to depreciation

accounts; reports), shall apply to any municipal corporation rendering or furnishing to the public any public utility service.

**Source:** This section is derived from Section 508 of the Public Utility Law, 1937, May 28, P.L. 1053.

## CHAPTER 19 SECURITIES AND OBLIGATIONS

Sec.

- 1901. Registration of securities to be issued or assumed.
- 1902. Contents of securities certificates.
- 1903. Registration or rejection of securities certificates.
- 1904. Unauthorized securities may be declared void.

### § 1901. Registration of securities to be issued or assumed.

(a) General rule.—Under such regulations as the commission may prescribe, every public utility, before it shall issue or assume securities, shall file with the commission and receive from it, notice of registration of a document to be known as a securities certificate.

(b) Issuance of securities defined.—Issuance of securities includes any act of a public utility executing, causing to be authenticated, delivering or making any change or extension in any term, condition or date of, any stock certificate, or other evidence of equitable interest in itself or any bond, note, trust certificate or other evidence of indebtedness of itself. Issuance of securities does not include the execution, authentication or delivery of the following:

(1) Securities to replace identical securities lost, mutilated or destroyed while in the ownership of a bona fide holder-for-value who properly indemnifies the public utility therefor.

(2) Securities in exchange for the surrender of identical securities, solely for the purpose of registering or facilitating changes in the ownership thereof between bona fide holders-for-value, which surrendered securities are thereupon cancelled.

(3) Securities from the treasury of the public utility previously reacquired from bona fide holders-for-value and held alive.

(4) Any evidence of indebtedness, the date of maturity of which is at a period of less than one year from the date of its execution.

(5) Any evidence of indebtedness for which no date of maturity is fixed but which matures upon demand of the holder.

(6) Any evidence of indebtedness in the nature of a contract between a public utility and a vendor of equipment wherein the public utility promises to pay installments upon the purchase price of equipment acquired and which is not in the form of an equipment trust certificate or similar instrument readily marketable to the general public.

(c) Assumption of securities defined.— Assumption of securities includes any act of a public utility assuming primary or contingent liability for the payment of any dividends upon any stocks or of any principal or interest of any indebtedness, created or incurred by any other person or corporation. Assumption of securities does not include the acquisition of all property of the issuing company by the assuming company as provided in section 1102(3) (relating to enumeration of acts requiring certificate) if the approval of the commission is obtained.

**Source:** This section is derived from Section 601 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 1902. Contents of securities certificates.

Every securities certificate shall be verified by oath or affirmation, and shall be in such form, and contain such information pertinent to a proposed issuance or assumption of securities, as the commission may require by its regulations. If two or more issues of securities are proposed to be issued or assumed by a public utility, a separate securities certificate shall be submitted to the commission for the issuance or assumption of each security issue. All information submitted to the commission or obtained through investigation or hearing shall become a part of the securities certificate.

**Source:** This section is derived from Section 602 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** Prior language which authorized the commission to require further information from the utility or to conduct an investigation or hold a hearing, is deleted in light of the general powers of the commission. See Chapter 5, *infra*.

### § 1903. Registration or rejection of securities certificates.

(a) General rule.—Upon the submission or completion of any securities certificate, as provided in this title, the commission shall

register the same if it shall find that the issuance or assumption of securities in the amount, of the character, and for the purpose therein proposed, is necessary or proper for the present and probable future capital needs of the public utility filing such securities certificate; otherwise it shall reject the securities certificate. The commission may consider the relation which the amount of each class of securities issued by such public utility bears to the amount of other such classes, the nature of the business of such public utility, its credit and prospects, and other relevant matters. If, at the end of 30 days after the filing of a securities certificate, no order of rejection has been entered, such certificate shall be deemed, in fact and law, to have been registered. The commission may, by written order, giving reasons therefor, extend the 30-day consideration period.

(b) Effect of registration.—Such registration or rejection may be as to all or part of the securities to which such securities certificate pertains, and any registration may be made subject to such conditions as the commission may deem reasonable in the premises. No registration, however, shall be construed to imply any guaranty or obligation on the part of the Commonwealth as to such securities, nor shall it be taken as requiring the commission, in any proceeding brought before it for any purpose, to fix a valuation which shall be equal to the total of such securities and any other outstanding securities of such public utility, or to approve or prescribe a rate which shall be sufficient to yield a return on such securities or the total securities of such public utility.

(c) Written notice.—Written notice of the registration or rejection of any securities certificate shall be served by registered mail upon the public utility. Every notice of rejection shall contain a statement of the specific reasons for rejection. Both registered and rejected securities certificates shall be retained in the files of the commission.

(d) Amendment of rejected certificate.—At any time within 30 days after the commission shall have rejected a securities certificate, the public utility submitting such securities certificate may submit amendments thereto, verified by oath or affirmation, whereupon the commission shall again consider and act upon the securities certificate, as provided in subsection (a); but a securities certificate which shall have been twice rejected by the commission shall not be amended again. The registration by the commission of a securities certificate, either as completed or amended, shall bind the public utility submitting such securities certificate to issue or

assume the securities only under the terms, and for the purpose recited in such securities certificate and the issuance or assumption of the securities under any other terms, or for any other purpose, shall be unlawful.

(e) **Judicial review.**—Appeals from the action of the commission upon any securities certificates may be taken as provided by law. The completed securities certificate shall constitute the record to be certified to the appellate court in such appeal.

**Source:** This section is derived from Section 603 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 1904. **Unauthorized securities may be declared void.**

In addition to any other penalty provided in this title for any violation of this chapter, the commission, after due consideration of the public interest, may declare void any securities issued, or any assumption of securities made in violation of this chapter. Any such declaration shall not be construed as a bar to the recovery, by an innocent holder-for-value of such securities, of any losses sustained by reason of the wrongful acts of the issuing or assuming public utility.

**Source:** This section is derived from Section 604 of the Public Utility Law, 1937, May 28, P.L. 1053.

## CHAPTER 21 RELATIONS WITH AFFILIATED INTERESTS

Sec.

- 2101. Definitions.
- 2102. Contracts for services.
- 2103. Other contracts; donations.
- 2104. Contracts to be in writing; cost data.
- 2105. Contracts in violation of title void.
- 2106. Effect on rates.

### § 2101. **Definitions.**

The following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Affiliated interest.”

(1) Any person or corporation who or which owns or controls, directly or indirectly, 5% or more of the voting capital stock of a public utility.

(2) Any corporation, 5% or more of the voting capital stock of which is owned or controlled, directly or indirectly, by any person or corporation who or which owns or controls, directly or indirectly, 5% or more of the voting capital stock of a public utility.

(3) Any corporation, 5% or more of the voting capital stock of which is owned or controlled, directly or indirectly, by a public utility.

(4) Any person or corporation who or which, either singly or in conjunction with one or more other persons or corporations, is exercising any substantial influence over the policies, acts, or actions of a public utility, or stands in such relationship to the public utility that there is an absence of free and equal bargaining power between him or it and the public utility.

(5) Any director, officer or employee of an affiliated interest.

Any public utility, prior to contracting with any person or corporation, may apply to the commission for a determination as to whether or not such person or corporation is an affiliated interest.

“Contract with an affiliated interest.” Any agreement or contract, written or oral, express or implied, entered into by any public utility and an affiliated interest for the purchase, sale, payment, lease, loan, or exchange of any service, property, money, security, right or thing.

**Source:** This section is derived from Section 2 of the Public Utility Law, 1937, May 28, P.L. 1053.

## § 2102. Contracts for services.

(a) Filing with commission.—Every public utility having in force any contract with an affiliated interest for the furnishing to such public utility of any management, supervisory, purchasing, construction, engineering, financing or other services, and every public utility which shall hereafter enter into any such contract, or which shall change any such existing contract, shall file a copy of such contract or, if oral, a complete statement of the terms and conditions thereof, with the commission within ten days after its execution or change.



(b) Review of services and costs.—The commission shall have authority at any time to investigate every such contract filed in accordance with this section, and if, after reasonable notice and hearing, it shall determine that the amounts paid or payable thereunder are in excess of the reasonable cost of furnishing the services provided for in the contract, or that such services are not reasonably necessary and proper, it shall order such amounts, in so far as found excessive, to be stricken from the books of account of the public utility as charges to fixed capital, or operating expenses, as the case may be, and shall not consider such amounts in any proceeding. In any proceeding involving such amounts, the burden of proof to show that such amounts are not in excess of the reasonable cost of furnishing such services, and that such services are reasonable and proper, shall be on the public utility.

**Source:** This section is derived from Section 701 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 2103. Other contracts; donations.

(a) Filing required.—No public utility, except a common carrier by railroad or motor vehicle subject to Part I or Part II of the Interstate Commerce Act, shall, without filing a copy of the contract with the commission, make effective or modify any contract with an affiliated interest, or by way of donation, give to, or receive from, an affiliated interest, any property, money, security, right or thing. The filing shall be in writing and shall be in such form and contain such information as the commission may prescribe by its regulations.

(b) Disapproval.—If at the end of 30 days after the filing of the contract no order of disapproval has been entered, such contract shall be deemed, in fact and law, to have been approved. The commission may, by written order, giving reasons therefor, extend the 30-day consideration period. The commission may, after a hearing and a finding of public interest, disapprove any such contract in whole or in part, and all such portions of the contract, then executory, shall be void and all such transactions thereunder, other than payment by either party for value already received, shall be unlawful.

(c) Exceptions.—This section does not apply to:

(1) A contract for services under section 2102 (relating to contracts for services).

(2) Any single or isolated transaction involving a cash consideration not exceeding \$1,000.

(3) Unless the transaction involves more than \$50,000, the transfer of securities or the loan of money, any single or isolated transaction involving the purchase or sale of fixed assets, materials or supplies, used in rendering public service, in which the monetary value of the consideration does not exceed 1% of the un-depreciated book value of the fixed assets of such public utility.

**Source:** This section is derived from Section 702 of the Public Utility Law, 1937, May 28, P.L. 1053.

**Comment:** The requirement of the act of 1937 of prior approval of the commission of certain contracts with affiliated interests was held unconstitutional in *Bell Tel. Co. of Pennsylvania v. Driscoll*, 343 Pa. 109 (1941). The concept of the section authorizing the commission to scrutinize so-called "sweetheart" contracts has been retained by requiring that copies of such contracts be filed with the commission and authorizing their review where the commission believes it to be appropriate. Also see "Report and Recommendations of the Senate Consumer Affairs Committee to Reform the Pennsylvania Public Utility Commission," Harrisburg, September 1975, at page 77.

#### **§ 2104. Contracts to be in writing; cost data.**

The commission may, by regulation or order, require any contract with an affiliated interest to be in writing. The commission may also, by regulation or order, require that any contract with an affiliated interest shall contain a provision whereby the affiliated interest shall agree to furnish to the public utility, at the time of billing such public utility for any service, property, security, right, or thing, under such contract, a detailed statement of the cost to the affiliated interest of such service, property, security, right, or thing.

**Source:** This section is derived from Section 703 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 2105. Contracts in violation of title void.**

Every contract with an affiliated interest, made effective or modified in violation of any provision of this title, or of any regulation or order of the commission made under this title, shall be void; and any purchase, sale, payment, lease, loan, or exchange of any service, property, money, security, right, or thing under such contract, or under any contract with an affiliated interest, the terms

of which shall have been breached by the affiliated interest, shall be unlawful.

**Source:** This section is derived from Section 706 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 2106. Effect on rates.**

No approval granted to any public utility by the commission, with respect to any contract with, or any donation to, or from, an affiliated interest, and no exemption granted by any regulation or order of the commission with respect thereto, shall bind or require the commission, in fixing the rates of such public utility, to take into consideration any payment made, or any property, right, or thing received by such public utility, under any contract entered into, extended, or amended, or donation given or received, pursuant to such approval or exemption. The commission shall not be bound, in fixing the rates of any public utility, to take into consideration any unreasonable payment made by such public utility under any contract with an affiliated interest.

**Source:** This section is derived from Section 705 of the Public Utility Law, 1937, May 28, P.L. 1053.

**PART IV  
SPECIAL PROVISIONS  
RELATING TO REGULATION**

Chapter

- 23. Common Carriers
- 25. Contract Carrier by Motor Vehicle and Broker
- 27. Railroads
- 29. Telephone and Telegraph Wires

**CHAPTER 23  
COMMON CARRIERS**

Sec.

- 2301. Operation and distribution of facilities of common carriers.
- 2302. Transfers and time schedules of common carriers.
- 2303. Common carrier connections with other lines.

2304. Liability of common carriers for damages to property in transit; bills of lading.

2305. Full crews.

**§ 2301. Operation and distribution of facilities of common carriers.**

Every common carrier shall furnish a reasonably sufficient number of safe facilities, and run and operate the same with such motive power as may reasonably be required, in the transportation of all such passengers or property as may seek, or be offered to it, for such transportation, and shall operate its facilities with sufficient frequency, at such reasonable and proper times, and to and from such stations or points, as the commission, having regard to the accommodation, convenience, and safety of the public, may require; and, when required by the commission, shall change the time schedule for the operation of its facilities, and, generally, shall make any other arrangements and improvements in its service which the commission may require. If, at any particular time, a common carrier may not have sufficient facilities to meet the requirements for the transportation of property, then it shall lawfully distribute all available facilities among the several applicants therefor without discrimination between shippers, localities, or competitive or noncompetitive points, in accordance with such regulations as the commission may prescribe. Such regulations, in the case of common carriers also engaged in interstate commerce, shall conform so far as practicable to those prescribed by any Federal regulatory body on the subject. Preference may always be given in the supply of facilities for transportation of fuel, livestock, or perishable matter.

**Source:** This section is derived from Section 403 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 2302. Transfers and time schedules of common carriers.**

Whenever the commission shall, after hearing had upon its own motion or upon complaint, deem it necessary or proper for the accommodation, convenience, and safety of the public in the transportation of passengers, every common carrier shall transfer such passengers to or from another part of the system of such common carrier and, to this end, shall make proper and convenient arrangement or adjustment of the time schedules of such common carrier, and shall also make such proper and convenient arrangement or adjustment of the time schedules of such common carrier with those of

like adjustment of the time schedules of such common carrier with those of like, contiguous, or connecting common carriers, as the commission shall deem necessary or proper for the accommodation, convenience, and safety of the public.

**Source:** This section is derived from Section 404 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 2303. Common carrier connections with other lines.**

(a) General rule.—Every common carrier shall construct and maintain, whenever the commission may, after hearing had upon its own motion or upon complaint, require the same, such switch or other connections with or between the lines of a like common carrier, where the same is reasonably practical, to form a continuous line of transportation, and to cause the transportation of passengers or property between points within this Commonwealth to be without unreasonable interruption or delay, and shall establish through routes and service therein, and joint rates applicable thereto, and, where practicable, shall transport passengers or property over the same without transfer from the originating facilities. In case of failure of the common carriers concerned to agree among themselves upon the division of the cost of construction, maintenance, and operation of the connections thus provided for, or the allowance to be made for the interchange of service, the commission shall ascertain and, by order, prescribe and fix the equitable and just apportionment and division of the same.

(b) Limitation.—Every common carrier and motor carrier is hereby prohibited from interchanging, receiving or delivering, with, from or to any common carrier by motor vehicle which does not have in force a certificate or permit authorizing it to transport property within the jurisdiction of this title.

**Source:** This section is derived from Section 405 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 2304. Liability of common carriers for damages to property in transit; bills of lading.**

(a) General rule.—Every common carrier that receives property for transportation between points within this Commonwealth shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it, or any other common carrier to which such

property may be delivered, or over whose line such property may be transported. No contract, receipt, rule or regulation shall exempt such common carrier from the liability hereby imposed. The commission may, by regulation or order, authorize or require any common carrier to establish and maintain rates related to the value of shipments declared in writing by the shipper, or agreed upon in writing as the release value of such shipments; such declaration or agreement to have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released. Any tariff filed pursuant to such regulation or order shall specifically refer thereto.

(b) Rights of holder and common carrier.—This section does not deprive any lawful holder of such receipt or bill of lading of any remedy or right of action which such holder has under existing laws. Any common carrier issuing such receipt or bill of lading shall, in the event of a recovery of a judgment against, or of a satisfaction made by, such common carrier for such loss or damage, be entitled to recover from the common carrier on whose line the loss or damage shall have been sustained, an amount not in excess of the loss or damage to such property which the lawful holder of such bill of lading or receipt would otherwise have been entitled to recover against such last mentioned common carrier, and not in excess of the amount actually paid to the holder of such receipt or bill of lading.

**Source:** This section is derived from Section 407 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 2305. Full crews.

After reasonable notice and hearing had upon its own motion, or upon complaint, the commission may, by order, require any common carrier to employ such number of men upon any of its facilities as, in the judgment of the commission, is requisite for the safe and efficient operation of such facilities.

**Source:** This section is derived from Section 419 of the Public Utility Law, 1937, May 28, P.L. 1053.

**CHAPTER 25**  
**CONTRACT CARRIER BY MOTOR VEHICLE AND**  
**BROKER**

Sec.

- 2501. Definitions.
- 2502. Regulation and classification of contract carrier and broker.
- 2503. Permits required of contract carriers.
- 2504. Dual operation by motor carriers.
- 2505. Licenses and financial responsibility required of brokers.
- 2506. Copies of contracts to be filed with commission; charges and changes therein.
- 2507. Minimum rates fixed and practices prescribed on complaint.
- 2508. Accounts, records and reports.
- 2509. Temporary permits and licenses.

**Comment:** The provisions of this chapter were premised upon a legislative declaration of policy which, as incorporated in the 1937 act (Section 801), stated:

Declaration of Policy.—It is hereby declared to be the policy of the Legislature to regulate in this act the service of common carriers by motor vehicle and forwarders in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in such service, and among such carriers and forwarders in the public interest; to promote safe, adequate, economical, and efficient service by common carriers by motor vehicle and forwarders, and just and reasonable rates therefor, without unjust discrimination, and unfair or destructive practices; to improve the relations between, and coordinate the service and regulation of, common carriers by motor vehicle, forwarders, and other carriers; to develop and preserve a safe highway transportation system properly adapted to the needs of the commerce of the Commonwealth of Pennsylvania and insure its availability between all points of production and markets of this Commonwealth. It is hereby found as a fact, after due investigation and deliberation, that the service of common carriers by motor vehicle, forwarders, contract carriers by motor vehicle, and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, are so closely interwoven and interdependent, and so directly affect each other, that in order effectively to regulate such common carriers by motor vehicle and forwarders, and to provide a proper and safe highway transportation system in the public interest, it is necessary to regulate the service of such contract carriers by motor vehicle and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, in the manner set forth in this article.

Although deleted from the substantive provisions of the code, this declaration of policy should be construed as a continuing expression of legislative intent.

**§ 2501. Definitions.**

The following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Broker.” Any person or corporation not included in the term “motor carrier” and not a bona fide employee or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing, providing, or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier.

“Contract carrier by motor vehicle.”

(1) The term “contract carrier by motor vehicle” includes any person or corporation who or which provides or furnishes transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for such transportation, or for use in such transportation, other than as a common carrier by motor vehicle.

(2) The term “contract carrier by motor vehicle” does not include:

(i) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision or control of the motor vehicle so sold.

(ii) Any bona fide agricultural cooperative association transporting property exclusively for the members of such association on a nonprofit basis, or any independent contractor hauling exclusively for such association.

(iii) Any owner or operator of a farm transporting agricultural products from or farm supplies to such farm, or any in-



dependent contractor hauling agricultural products or farm supplies, exclusively, for one or more owners or operators of farms.

(iv) Transportation of school children for school purposes or to and from school sponsored extra curricular activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school districts not exceeding five in number, or between their homes and Sunday school in any motor vehicle owned by the school district, private school or parochial school, or the transportation of school children between their homes and school or to and from school sponsored extra curricular or educational activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number, if the person performing the extra curricular transportation has a contract for the transportation of school children between their homes and school, with the private or parochial school, with the school district or jointure in which the school is located, or with a school district that is a member of a jointure in which the school is located if the jointure has no contracts with other persons for the transportation of students between their homes and school, and if the person maintains a copy of all contracts in the vehicle at all times, or children between their homes and Sunday school in any motor vehicle operated under contract with the school district, private school or parochial school.

(v) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated or road construction materials.

(vi) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election.

(vii) Transportation of pulpwood, chemical wood, saw logs or veneer logs from woodlots.

(viii) Transportation by towing of wrecked or disabled motor vehicles.

(ix) Any person or corporation who or which furnishes transportation for any injured, ill or dead person.

**Source:** This section is derived from Section 2 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 2502. Regulation and classification of contract carrier and broker.**

(a) Regulation.—The commission shall regulate:

(1) Contract carriers by motor vehicle, and to that end the commission may prescribe minimum rates which are just and reasonable, and establish requirements with respect to uniform systems of accounts, records, reports, preservation of records, safety of service and equipment and insurance.

(2) Brokers, and to that end the commission may prescribe requirements with respect to licensing, financial responsibility, accounts, reports, records, services and practices of any such brokers.

(b) Classification.—The commission may from time to time establish such classifications of contract carriers by motor vehicle, or brokers, as the special nature of the service of such carriers or brokers shall require and as deemed necessary or desirable in the public interest.

**Source:** Subsection (a) is derived from Section 802 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsection (b) is derived from Section 803 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 2503. Permits required of contract carriers.**

(a) General rule.—No person or corporation shall render service as a contract carrier by motor vehicle unless there is in force with respect to such carrier a permit issued by the commission, authorizing such person or corporation to engage in such business. The application for such permit shall be determined by the commission in accordance with the provisions of subsection (b).

(b) Application for permit.—Every application for such permit shall be made to the commission in writing, be verified by oath or affirmation, and shall be in such form and contain such information as the commission may require by its regulations. A permit shall be issued by the commission to any qualified applicant therefor authorizing in whole or in part the service covered by the application, if it appears from the application, or from any hearing held thereon, that the applicant is fit, willing and able properly to perform the service

of a contract carrier by motor vehicle, and to conform to the provisions of this chapter and the lawful orders or regulations of the commission thereunder, and that the proposed service to the extent authorized by the permit will be consistent with the public interest; otherwise such application shall be denied.

(c) Special permit provisions.—The commission shall specify in the permit the business of the contract carrier by motor vehicle covered thereby, and the route and area required in serving the customers in such business, and shall attach to it, at the time of issuance, and from time to time thereafter, such reasonable terms, conditions, flexibility and limitations consistent with the character of the holder as are necessary to carry out, with respect to the service of such carrier, the requirements of this title.

**Source:** This section is derived from Section 804 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 2504. Dual operation by motor carriers.**

No person or corporation shall at the same time hold a certificate of public convenience as a common carrier by motor vehicle and a permit as a contract carrier by motor vehicle, unless for good cause shown, the commission shall find that such certificate and permit may be held consistently with the public interest.

**Source:** This section is derived from Section 805 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 2505. Licenses and financial responsibility required of brokers.**

(a) General rule.—No person or corporation shall engage in the business of a broker in this Commonwealth unless such person holds a brokerage license issued by the commission. No such person or corporation, by virtue of a brokerage license, shall render service as a motor carrier unless he holds a certificate of public convenience or permit, as the case may be. It shall be unlawful for any broker to employ any motor carrier who or which is not the lawful holder of an effective certificate of public convenience or permit.

(b) Application for license.—Every application for a brokerage license shall be made to the commission in writing, be verified by oath or affirmation, and shall be in such form and contain such information as the commission may, by its regulations, require. A brokerage license shall be issued to any qualified applicant therefor,

authorizing the whole or any part of the service covered by the application, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this title and the lawful orders and regulations of the commission thereunder, and that the proposed service, to the extent authorized by the license, will be consistent with the public interest.

(c) Regulation and bond.—The commission shall prescribe reasonable regulations to be observed by any broker for the protection of passengers or property transported by motor vehicle, and no brokerage license shall be issued or remain in force unless the holder thereof shall have furnished a bond or other security approved by the commission, in such form and amount as will insure the financial responsibility of the broker and the transportation of passengers or property in accordance with contracts, agreements or arrangements therefor.

(d) Transferability of permits and licenses.—Any permit or brokerage license issued under this chapter may be transferred pursuant to such regulations as the commission may prescribe.

**Source:** Subsections (a), (b) and (c) are derived from Section 806 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsection (d) is derived from Section 807 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 2506. Copies of contracts to be filed with commission; charges and changes therein.**

(a) General rule.—It shall be the duty of every contract carrier by motor vehicle to reduce to writing and file with the commission all contracts, or copies thereof, pertaining to the service of such carrier, and such schedules or other information pertaining to the rates of such carrier, in such form and detail, and at such times, as the commission may require. No such contract carrier shall engage in the transportation of passengers or property, unless the minimum charges for such transportation by such carrier have been filed with the commission, or copies of all contracts reduced to writing and filed with the commission. No reduction shall be made in any charge either directly or by means of any change in any rule, regulation or practice affecting such charge, except after 60-days notice of the proposed change filed in such form and manner as the commission may by regulation prescribe, but the commission may, in its discretion, allow such change upon less notice. Such notice shall plainly state the change proposed to be made and the time when such

change will become effective. No such carrier shall demand, charge, or collect a less compensation for such transportation than the charges filed in accordance with this section, as affected by any rule, regulation, or practice so filed, or as prescribed by the commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special service, facilities, or privileges, or by any other device whatsoever, to charge, accept or receive less than the minimum charge so filed or prescribed.

(b) Reduced charges.—Whenever any such contract carrier shall file with the commission any schedule or contract stating a reduced charge for the transportation of passengers or property directly or by means of any rule, regulation or practice, the commission is hereby authorized and empowered, upon complaint, or upon its own motion, at once and if it so orders, without answer or other formal pleading, but upon reasonable notice, to enter upon a hearing concerning the reasonableness and justness of such charge, rule, regulation, or practice; and pending such hearing and decision thereon, the commission, by filing with such schedule or contract, and delivering to the carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract, or defer the use of such charge, rule, regulation or practice for a period of 90 days; and if the proceeding has not been concluded and a final order made within such period, the commission may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than 180 days beyond the time when it would otherwise become effective; and after hearing, whether completed before or after the charge, rule, regulation, or practice becomes effective, the commission may make such order with reference thereto, as would be proper in a proceeding instituted after it had become effective.

**Source:** This section is derived from Section 809 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 2507. Minimum rates fixed and practices prescribed on complaint.**

Whenever, after hearing upon complaint or its own motion, the commission finds that any rate of any contract carrier by motor vehicle, or any regulation or practice of any such carrier affecting such rate for the transportation of passengers or property, contravenes the public interest, the commission may prescribe such minimum rates or such regulations or practices as in its judgment may be just

and reasonable to promote the public interest. Such minimum rates or such regulations or practices so prescribed by the commission shall not be inconsistent with the public interest, and the commission shall give due consideration to the cost of the service of such carriers, and to the effect of such minimum rates or such regulations or practices upon the transportation of passengers or property by such carriers, and diversion of the business of any common carrier by motor vehicle to other forms of transportation. All complaints to the commission under this section shall state fully the facts complained of and the reasons for such complaints, and shall be made under oath or affirmation.

**Source:** This section is derived from Section 810 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 2508. Accounts, records and reports.**

(a) Reports.—The commission is hereby authorized to require annual, periodical, or special reports from all contract carriers by motor vehicle and brokers; to prescribe the manner and form in which such reports shall be made; and to require from such carriers and brokers, specific answers to all questions upon which the commission may deem information to be necessary. Such reports shall be under oath or affirmation whenever the commission so requires.

(b) Form of accounts and records.—The commission may prescribe the forms of any and all accounts, records, and memoranda, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, to be kept by contract carriers by motor vehicle, and brokers, and the length of time such accounts, records, and memoranda shall be preserved; and whenever the commission shall so prescribe, it shall be the duty of every contract carrier by motor vehicle, and broker, affected to comply therewith. In every case of a contract carrier by motor vehicle, or broker, subject to the jurisdiction of any Federal regulatory body, the systems of accounts, records, and memoranda prescribed by the commission shall conform, so far as practicable, to those prescribed by such regulatory body.

**Source:** This section is derived from Section 811 of the Public Utility Law, 1937, May 28, P.L. 1053.

#### **§ 2509. Temporary permits and licenses.**

The commission, under such regulations as it shall prescribe,

may, without hearing, in proper cases, consider and approve applications for permits and licenses, and in emergencies grant temporary permits and licenses under this chapter, pending action on permanent permits or licenses; but no application shall be denied without right of hearing thereon being tendered the applicant.

**Source:** This section is derived from Section 813 of the Public Utility Law, 1937, May 28, P.L. 1053.

## CHAPTER 27 RAILROADS

Sec.

2701. Railroad connections with sidetracks and laterals.

2702. Construction, relocation and abolition of crossings.

2703. Ejectment in crossing cases.

2704. Compensation for damages occasioned by construction, relocation or abolition of crossings.

2705. Speedometers.

### § 2701. Railroad connections with sidetracks and laterals.

(a) General rule.—Every public utility engaged in a railroad business shall, upon application of any owner or operator of any lateral railroad, or any private sidetrack, or of any shipper tendering property for transportation, or of any consignee, construct, maintain, and operate, at a reasonable place and upon reasonable terms, a switch connection with any such lateral railroad or private sidetrack which may be constructed to connect with its railroad, where such connection may be reasonably practicable and can be put in with safety, and will furnish sufficient business to justify the construction and maintenance of the same.

(b) Additional connections and use.—Whenever any lateral line of railroad or private sidetrack has been so connected with a line of any railroad, or whenever any owner of such lateral railroad or private sidetrack has at any time heretofore sold or leased, or shall hereafter sell or lease, such lateral railroad or sidetrack to any public utility engaged in a railroad business, any person or corporation, including a municipal corporation, shall be entitled to connect therewith, or to use the same upon payment to the party incurring the primary expense thereof of a reasonable proportion of the cost of

such lateral railroad or private sidetrack, and of the maintenance thereof, which shall be determined, in case of disagreement among the parties, by the commission, after notice to the interested parties, and a hearing. Such connection and use can be made without unreasonable interference with the use thereof by the party incurring the primary expense of owning or leasing such lateral railroad or sidetrack.

**Source:** This section is derived from Section 406 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 2702. Construction, relocation and abolition of crossings.**

(a) General rule.—No public utility, engaged in the transportation of passengers or property, shall, without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated or abolished.

(b) Acquisition of property and regulation of crossing.—The commission is hereby vested with exclusive power to appropriate property for any such crossing, except as to such property as has been or may hereafter be condemned by the Department of Transportation for Federal Aid Projects under section 1004 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," in which case the provisions of that act shall be in effect, and to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be constructed, altered, relocated or abolished, and the manner and conditions in or under which such crossings shall be maintained, operated, and protected to effectuate the prevention of accidents and the promotion of the safety of the public.

(c) Mandatory relocation, alteration or abolition.—Upon its own motion or upon complaint, the commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be abolished upon such reasonable terms and conditions as shall be prescribed by the commission. In determining the plans and specifications for any such crossing, the commission may lay out, es-



tablish, and open such new highways as, in its opinion, may be necessary to connect such crossing with any existing highway, or make such crossing more available to public use; and may abandon or vacate such highways or portions of highways as, in the opinion of the commission, may be rendered unnecessary for public use by the construction, relocation, or abandonment of any of such crossings. The commission may order the work of construction, relocation, alteration, protection, or abolition of any crossing aforesaid to be performed in whole or in part by any public utility or municipal corporation concerned or by the Commonwealth.

(d) Procedure for appropriation of property.—When any real property is appropriated by the commission under this section, each parcel of such property so appropriated, shall be accurately described by metes and bounds, and the record owner of each such parcel shall be named in the order of appropriation. Unless otherwise recorded, the commission shall file with the recorder of deeds of the proper county, a copy of that portion of the order of the commission which appropriates such property, and such plans and other detailed information as the commission may deem necessary. Such portion of the commission's order dealing with the specific property appropriated shall be recorded and indexed under the name or names of the record owners of such specific property at the expense of the utility or utilities, political subdivision, municipality or municipalities, governmental agency, including the Department of Transportation and Public Utility Commission, corporation or persons upon whose instigation, petition or complaint and said crossing was constructed, reconstructed, relocated, altered or abolished, as may be ordered, to bear such expense or recording by the commission.

**Source:** This section is derived from Section 409 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 2703. Ejectment in crossing cases.**

When any real property is appropriated by the commission in connection with a crossing improvement under this title, the commission may direct the removal of all structures within the lines of such appropriation. In any case where any such order has been or shall be made, the court of common pleas of the county wherein the property appropriated shall be situate, may, upon petition by the commission, the Department of Transportation or the county commissioners, issue a writ or writs of possession. The petition shall be

served upon the parties named therein and such other parties as the court may direct. If no answer is filed, or if an answer is filed, and after such hearing as the court shall direct, it shall deem the same to be insufficient, the court shall, upon motion, direct such writ to issue, and shall order and direct the sheriff to execute such writ and deliver possession to the Commonwealth or the county, as the case may be. Such procedure shall not be considered as in derogation of, or in any manner affecting, any other powers or procedure possessed by the Commonwealth or county in such cases. No bond or other form of security shall be required to be filed by the Commonwealth or the county.

**Source:** This section is derived from Section 410 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 2704. Compensation for damages occasioned by construction, relocation or abolition of crossings.**

(a) General rule.—The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this title, shall, after due notice and hearing, be ascertained and determined by the commission. Such compensation, as well as the cost of construction, relocation, alteration, protection, or abolition of such crossing, and of facilities at or adjacent to such crossing which are used in any kind of public utility service, shall be borne and paid, as provided in this section, by the public utilities or municipal corporations concerned, or by the Commonwealth, in such proper proportions as the commission may, after due notice and hearing, determine, unless such proportions are mutually agreed upon and paid by the interested parties.

(b) Judicial review.—Any party to the proceeding dissatisfied with the determination of the commission may appeal therefrom, as provided by law, and for this purpose is hereby authorized to sue the Commonwealth. The commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall appoint viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the

general law applicable to the appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use.

(c) Payment of compensation.—The amount of damages or compensation determined and awarded to be paid the owners of adjacent property by the Commonwealth shall, in each instance, be paid by the State Treasurer, on a warrant drawn by the State Treasurer, upon the presentation to that officer of a statement setting forth the amount determined to be paid as aforesaid, duly certified by the commission; such payment to be paid out of any funds specifically appropriated for the improvement of the roads or highways of the Commonwealth; and in case of a verdict and judgment thereon for the damages or compensation, recorded by any such adjacent property owners upon appeal, the same shall be paid out of any funds appropriated as aforesaid; and any court of common pleas hearing and determining such appeal is hereby authorized and empowered to issue a writ of mandamus to such commission and the State Treasurer, or either of them, as the case may require, for the payment of such judgment.

(d) Recovery of compensation.—The commission shall have the right to recover, for and on behalf of the Commonwealth, by due process of law, as debts of like amount are now by law recoverable, from the public utility or municipal corporation concerned, in such amounts or proportions against each as may be determined by the commission, as hereinbefore provided in this section, the amount of the damages or compensation awarded to the owners of adjacent property by the commission, or by the court of the proper county on appeal, and the amounts so received shall be paid into the State Treasury, through the Department of Revenue, to the credit of the Motor License Fund.

**Source:** This section is derived from Section 411 of the Public Utility Law, 1937, May 28, P.L. 1053.

### § 2705. Speedometers.

(a) General rule.—No railroad locomotive shall be operated in excess of 30 miles per hour in this Commonwealth without a speedometer or speed recorder functioning correctly within four miles per hour within the view of the engineer or operator of such locomotive.

(b) Locomotives used exclusively within yard limits.—Locomotives operated or used exclusively within designated yard limits in switching or transfer service need not be equipped in accordance with the provisions of this section.

(c) Notification of compliance.—Each railroad shall notify the commission of the date that each such locomotive comes into compliance with the provisions of this section. The notification shall state the serial number or other identification of the locomotive.

(d) Schedule of regulated locomotives.—Each railroad affected by the provisions of this section shall maintain at a designated location a list or schedule of the locomotives referred to in this section. It shall set forth, along with other information, the date that the speed indicator or speed recorder referred to herein was calibrated and found to be functioning in accordance with the provisions of this section. It shall advise the commission as to such location.

(e) Enforcement.—The commission shall enforce the provisions of this section and may issue such order or orders as may be proper to require compliance therewith.

**Source:** Subsections (a), (b), (c), (d) and (e) of this section are derived from Sections 2, 4, 5, 6 and 7, respectively, of the act of 1972, January 5, P.L. 660.

**Comment:** The act of 1972, January 5, P.L. (1971) 660, Act No. 174, which is incorporated in this section, also included a declaration of findings:

The General Assembly of the Commonwealth of Pennsylvania finds that the safe operation of steam, diesel, electric or otherwise propelled locomotives within the Commonwealth, by reason of its peculiarly mountainous terrain and winding river valleys, requires that all steam, diesel, electric or otherwise propelled locomotives operated in excess of thirty miles per hour by common carriers by rail within the Commonwealth be equipped with fully operable speedometers within view of the engineer or operator of such locomotive.

## CHAPTER 29

### TELEPHONE AND TELEGRAPH WIRES

Sec.

2901. Definitions.

2902. Private wire for gambling information prohibited.

2903. Written contract for private wire.

2904. Joint use of telephone and telegraph facilities.

### § 2901. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Dissemination.” The act of transmitting, distributing, advising, spreading, communicating, conveying or making known.

“Private wire.” Any and all service equipment, facilities, conduits, poles, wires, circuits, systems by which or by means of which service is furnished for communication purposes, either through the medium of telephone, telegraph, Morse, teletypewriter, loudspeaker or any other means, or by which the voice or electrical impulses are sent over a wire, and which services are contracted for or leased for service between two or more points specifically designated, and are not connected to or available for general telegraphic or telephonic exchange or toll service, and shall include such services known as “special contract leased wire service,” “leased line,” “private line,” “private system,” “Morse line,” “private wire,” but shall not include the usual and customary telephone service by which the subscriber may be connected at each separate call to any other telephone designated by him only through the general telephone exchange system or toll service, and shall not include private wires used for fire or burglar alarm purposes, nor telegraph messenger call boxes and circuits used in connection therewith, time clock circuits used for furnishing correct time service, nor telegraph teleprinters when these teleprinters terminate in the telegraph companies’ offices and are not directly connected between two customers.

“Public utility.” A person, partnership, association or corporation, now or hereafter owning or operating in this Commonwealth, equipment or facilities for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

**Source:** This section is derived from Section 1 of the act of 1938, Sp. Sess., December 1, P.L. 111.

### § 2902. Private wire for gambling information prohibited.

(a) General rule.—It is unlawful for any public utility knowingly to furnish to any person any private wire for use or intended for use in the dissemination of information in furtherance of gambling or

for gambling purposes. Any contract shall constitute prima facie evidence that such private wire will be used in furtherance of gambling or for gambling purposes if it shall appear in such contract, or otherwise, that such private wire will be used, is intended to be used or has been used for the dissemination of information pertaining to any horse-racing, race track, race horse, betting, betting odds or any information relative thereto.

(b) Burden of proof.—In any proceeding before the commission under this chapter and in any hearing or proceeding on appeal, the burden of proof shall be on the public utility and the person contracting for such private wire to show that the private wire has not been used, or is not being used, or is not intended for use in the furtherance of gambling or for gambling purposes.

**Source:** This section is derived from Sections 2, 7 and 8 of the act of 1938, Sp. Sess., December 1, P.L. 111.

**§ 2903. Written contract for private wire.**

(a) General rule.—It is unlawful for any public utility to furnish to any person any private wire, except in pursuance of a written contract signed by the public utility, by the person contracting for said private wire and responsible under the terms of the contract for the payment for the service, and by the person in possession or control of any place or location designated in the contract for installation or connection of said private wire, which contract shall include a detailed written statement of the purpose for which such private wire is intended to be used.

(b) Exceptions.—This section does not apply to:

(1) The furnishing of any private wire in case of public emergency, or where the furnishing of the said private wire is for a temporary purpose not to exceed 48 hours.

(2) Any private wire furnished for use in radio broadcasting, or to any private wire furnished for use by any protective service operating under a franchise granted by any municipality, or to any private wire furnished for use in interstate commerce, or to any private wire furnished for use of newspapers of general circulation.

(c) Action by commission.—It is unlawful for any public utility to furnish to any person any private wire without first furnishing to the commission a duplicate original of the written contract required

by this section. The commission shall examine the same forthwith and conduct such investigation as it may deem necessary, and, if upon examination of the contract, or after investigation, or otherwise at any time, the commission shall find that the said private wire is intended for or has been used for or is being used for the transmission of information or advice in furtherance of gambling, the commission shall disapprove the said contract and give notice of such disapproval to the contracting parties. Thereafter it shall be unlawful for any public utility to furnish the said private wire provided for in the said contract. This subsection does not apply to the furnishing of any private wire in case of public emergency, or where the furnishing of the said private wire is for a temporary purpose not to exceed 48 hours.

(d) Hearing.—Any public utility or other person party to the contract who shall feel aggrieved at the action of the commission in disapproving any contract for any private wire shall be entitled to a hearing before the commission upon written request.

(e) Illegal use.—It is unlawful for any person, who has been furnished a private wire by any public utility in accordance with the provisions of this chapter, to use such private wire for any purpose other than that specified in the contract.

**Source:** Subsections (a) and (b) are derived from Section 3 of the act of 1938, Sp. Sess., December 1, P.L. 111. Subsections (c), (d) and (e) are derived from Sections 4, 5 and 6, respectively, of the act of 1938, Sp. Sess., December 1, P.L. 111.

#### **§ 2904. Joint use of telephone and telegraph facilities.**

(a) Through lines for continuous service.—The commission may, upon complaint or upon its own motion, after reasonable notice and hearing, by order, require any two or more public utilities, whose lines or wires form a continuous line of communication, or could be made to do so by the construction and maintenance of suitable connections or the joint use of facilities, or the transfer of messages at common points, between different localities which cannot be communicated with, or reached by, the lines of either public utility alone, where such service is not already established or provided, to establish and maintain through lines within this Commonwealth between two or more such localities. The rate for such service shall be just and reasonable and the commission shall have power to establish the same, and declare the portion thereof to which each com-

pany affected thereby is entitled and the manner in which the same must be secured and paid. All facilities necessary to establish such service shall be constructed and maintained in such manner and under such rules, with such division of expense and labor, as may be required by the commission.

(b) **Trunk line connections.**—The commission may, upon complaint or upon its own motion, after reasonable notice and hearing, by order, require any one or more public utilities to connect their facilities, through the medium of suitable trunk lines, with such manual or automatic inter-communicating telephone or telegraph systems as may be wholly owned or leased by such public utilities, or by any other person or corporation. Rates for such trunk line connections and service shall be in accordance with tariffs filed with and approved by the commission.

**Source:** This section is derived from Section 408 of the Public Utility Law, 1937, May 28, P.L. 1053.

## **PART V MISCELLANEOUS PROVISIONS**

### **Chapter**

- 31. Foreign Trade Zones
- 33. Violations and Penalties

## **CHAPTER 31 FOREIGN TRADE ZONES**

### **Sec.**

- 3101. Operation as a public utility.
- 3102. Establishment by private corporations and municipalities.
- 3103. Formation and authority of private corporations.
- 3104. Municipalities and corporations to comply with law; forfeiture of rights.
- 3105. Reports to Department of Community Affairs.

### **§ 3101. Operation as public utility.**

Each foreign trade zone established and maintained within the limits of this Commonwealth as set forth in this chapter shall be operated as a public utility, and all rates and charges for all services



or privileges within the zone shall be fair and reasonable, but no such rates or charges shall be subject to supervision, regulation or control by the commission. Every municipality and private corporation operating and maintaining a foreign trade zone shall afford to all who may apply for the use of the trade zone and its facilities and appurtenances, uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments.

**Source:** This section is derived from Section 4 of the act of 1935, June 10, P.L. 291.

**§ 3102. Establishment by private corporations and municipalities.**

Any private corporation formed in this Commonwealth for the purposes expressed in this title and any municipality of this Commonwealth, is hereby authorized to make application in accordance with the provisions of the act of Congress of the United States, approved June 18, 1934, entitled "An act to provide for the establishment, operation, and maintenance of foreign trade zones in ports of entry of the United States; to expedite and encourage foreign commerce, and for other purposes," (Public Act No. 397, 73rd Congress), referred to in this chapter as "the act of Congress"; to the board consisting of the Secretary of Commerce, the Secretary of the Treasury, and the Secretary of War, thereby established, referred to in this chapter as "the board"; for the privilege of establishing, operating, and maintaining a foreign trade zone in, or adjacent to, any port of entry under the jurisdiction of the United States in order to expedite and encourage foreign commerce. If, and when, such application is granted, the grantee shall have power to establish, operate, and maintain such foreign trade zone. Any foreign trade zone established by a municipality may be operated and maintained only within the limits of such municipality, or adjacent thereto. Any such foreign trade zone shall be established, operated, and maintained by a municipality or private corporation in accordance with the provisions of the act of Congress.

**Source:** This section is derived from Section 1 of the act of 1935, June 10, P.L. 291.

**§ 3103. Formation and authority of private corporations.**

Any such private corporation desiring to engage in the business set forth in this chapter shall be formed as a business corporation

under the act of May 5, 1933 (P.L.364, No.106), known as the "Business Corporation Law," and shall have all the powers, rights and privileges, and be subject to all the restrictions and limitations provided by the "Business Corporation Law."

**Source:** This section is derived from Section 2 of the act of 1935, June 10, P.L. 291.

**§ 3104. Municipalities and corporations to comply with law; forfeiture of rights.**

Each municipality and private corporation establishing, operating, and maintaining a foreign trade zone shall fully comply with all of the provisions of the act of Congress and the rules and regulations prescribed by the board thereunder, and shall have all the powers, rights, privileges, and authority conferred by the act of Congress and said rules and regulations, and be subject to the limitations and restrictions contained in said act and said rules and regulations. Any such municipality or private corporation shall forfeit any right and privilege to operate and maintain a foreign trade zone, under the provisions of this title or under the charter of any private corporation formed as aforesaid, if, and when, its grant of privilege is finally revoked under the authority granted in the act of Congress.

**Source:** This section is derived from Section 3 of the act of 1935, June 10, P.L. 291.

**§ 3105. Reports to Department of Community Affairs.**

Each municipality and private corporation operating a foreign trade zone within the limits of this Commonwealth shall file a copy of every report which it shall make, or be required to make, under the act of Congress with the Department of Community Affairs.

**Source:** This section is derived from Section 5 of the act of 1935, June 10, P.L. 291.

## CHAPTER 33 VIOLATIONS AND PENALTIES

**Comment:** The specific penalties provided for in the 1937 act have been recast in light of the classification of offenses of the Crimes Code, Title 18, Pennsylvania Consolidated Statutes. The class of offense chosen was the one most similar to the original penalties provided.

Sec.

- 3301. Civil penalties for violations.
- 3302. Criminal penalties for violations.
- 3303. Nonliability for enforcement of lawful tariffs and rates.
- 3304. Unlawful issuance and assumption of securities.
- 3305. Misapplication of proceeds of securities.
- 3306. Execution of unlawful contracts.
- 3307. Refusal to obey subpoena and testify.
- 3308. Concealment of witnesses and records.
- 3309. Liability for damages occasioned by unlawful acts.
- 3310. Unauthorized operation by carriers and brokers.
- 3311. Bribery.
- 3312. Evasion of motor carrier and broker regulations.
- 3313. Excessive price on resale.
- 3314. Limitation of actions and cumulation of remedies.
- 3315. Disposition of fines and penalties.

**§ 3301. Civil penalties for violations.**

(a) General rule.—If any public utility, or any other person or corporation subject to this title, shall violate any of the provisions of this title, or shall do any matter or thing herein prohibited; or shall fail, omit, neglect, or refuse to perform any duty enjoined upon it by this title; or shall fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final direction, requirement, determination or order made by the commission, or any order of the commission prescribing temporary rates in any rate proceeding, or to comply with any final judgment, order or decree made by any court, such public utility, person or corporation for such violation, omission, failure, neglect, or refusal, shall forfeit and pay to the Commonwealth the sum of \$50; to be recovered by an action of assumpsit instituted in the name of the Commonwealth in the appropriate court. In construing and enforcing the provisions of this section, the violation, omission, failure, neglect, or refusal of any officer, agent, or employee acting for, or employed by, any such public utility, person or corporation shall, in every case be deemed to be the violation, omission, failure, neglect, or refusal of such public utility, person or corporation.

(b) Continuing offenses.—Each and every day's continuance in the violation of any regulation or final direction, requirement, determination, or order of the commission, or of any order of the commission prescribing temporary rates in any rate proceeding, or of

any final judgment, order or decree made by any court, shall be a separate and distinct offense. If any interlocutory order of super-sedeas, or a preliminary injunction be granted, no penalties shall be incurred or collected for or on account of any act, matter, or thing done in violation of such final direction, requirement, determination, order, or decree, so superseded or enjoined for the period of time such order of super-sedeas or injunction is in force.

(c) Gas pipeline safety violations.—Any person or corporation, defined as a public utility in this title, who violates any provisions of this title governing the safety of pipeline or conduit facilities in the transportation of natural gas, flammable gas, or gas which is toxic or corrosive, or of any regulation or order issued thereunder, shall be subject to a civil penalty of not to exceed \$1,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

(d) Deduction from sums owing by Commonwealth.—The amount of the penalty, when finally determined, may be deducted from any sums owing by the Commonwealth to the person or corporation charged or may be recovered in a civil action in the Commonwealth Court.

**Source:** Subsections (a) and (b) are derived from Section 1301 of the Public Utility Law, 1937, May 28, P.L. 1053. Subsections (c) and (d) are derived from Section 1316 of the Public Utility Law, 1937, May 28, P.L. 1053.

### **§ 3302. Criminal penalties for violations.**

Any person, including an officer, agent or employee of any public utility, or any corporation, who or which shall knowingly fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final order, direction, or requirement of the commission, or any order of the commission prescribing temporary rates in any rate proceeding, or any final order or decree of any court, or who shall knowingly procure, aid, or abet any such violation, omission, failure, neglect, or refusal, shall be guilty of a misdemeanor of the third degree.

**Source:** This section is derived from Section 1302 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3303. Nonliability for enforcement of lawful tariffs and rates.**

(a) Public utilities.—No public utility, nor any officer, agent or employee thereof, shall be liable for any penalty or forfeiture, or be subject to any prosecution, on account of demanding, collecting, or receiving any rate for any service, or for enforcing any regulation, or practice when such rate, regulation, or practice is contained in a tariff properly filed with the commission, and posted or published as herein provided, and is applicable by the terms thereof at the time to such service although such rate, regulation, method or practice may be found by the commission to be unjust or unreasonable.

(b) Contract carrier by motor vehicle.—No contract carrier by motor vehicle, nor any officer, agent or employee thereof, shall be liable for any penalty or forfeiture, or be subject to any prosecution on account of demanding, collecting or receiving any minimum rate prescribed by the commission under the provisions of this title.

**Source:** This section is derived from Section 1303 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3304. Unlawful issuance and assumption of securities.**

Any individual who shall knowingly affix his name or attestation to any stock certificate or other evidence of equitable interest, or any bond, note, trust certificate, or other security issued or assumed by any public utility, or any director who shall knowingly assent to the issuance or assumption of any such stock certificate, or other evidence of equitable interest, or any bond, note or other evidence of indebtedness, or other security issued by any public utility, or any director who shall knowingly assent to the issue of any such certificate of stock, trust certificate, corporate bond, note, or other evidence of indebtedness, or other security of any public utility, in violation of any of the provisions or requirements of this title, or any individual who shall knowingly make or assent to any false statement in any securities certificate required to be registered with the commission under the provisions of Chapter 19 (relating to securities and obligations) who shall by any false statements, oral or written, knowingly make, procure, or seek to procure, of the commission the registration of any such securities certificate, shall be guilty of a misdemeanor of the first degree.

**Source:** This section is derived from Section 1304 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3305. Misapplication of proceeds of securities.**

Any individual who shall knowingly make or assent to any application or disposition of any stock certificate, or other evidence of equitable interest, or any bond, note, trust certificate, or other evidence of indebtedness, or other security, or the proceeds of the sale or pledge thereof, or any part thereof, in violation of any statement or contrary to any purpose in relation thereto set forth or contained in any securities certificate required to be registered with the commission under the provisions of Chapter 19 (relating to securities and obligations) who shall knowingly make or assent to any false statement in any report or account to the commission as to the disposition or application of the proceeds, or any part thereof, of any sale or pledge of any stock certificate, or other evidence of equitable interest, or any bond, note, trust certificate, or other evidence of indebtedness, or other security, shall be guilty of a misdemeanor of the first degree.

**Source:** This section is derived from Section 1305 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3306. Execution of unlawful contracts.**

Any individual who shall knowingly affix his name or attestation to any written contract or arrangement, or who shall enter into any written contract or arrangement, or any individual who shall knowingly assent to the entering into of any written or verbal contract, in violation of any of the provisions or requirements of this title, or any individual knowingly making or assenting to any false statement in any application for the approval of any contract or arrangement, the approval of which is required by this title, shall be guilty of a misdemeanor of the first degree.

**Source:** This section is derived from Section 1306 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3307. Refusal to obey subpoena and testify.**

If any individual who shall be subpoenaed to attend before the commission, or its representative, shall fail to obey the command of such subpoena, or if any individual in attendance before the commission, or its representative, shall refuse to be sworn or to be examined, or to answer any relevant question, or to produce any relevant data, book, record, paper, or document when ordered so to do by the commission, or its representative, such person shall be guilty of a summary offense.

**Source:** This section is derived from Section 1307 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3308. Concealment of witnesses and records.**

If any individual shall absent himself from the jurisdiction of this Commonwealth or conceal himself for the purpose of avoiding service of a subpoena issued by the commission, or its representative; or shall remove relevant data, books, records, papers, or other documents out of this Commonwealth for the purpose of preventing their examination by the commission; or shall destroy or conceal any such data, books, records, papers or other documents for such purpose, he shall be adjudged guilty of contempt; and any court of common pleas may impose a fine of not less than \$100 for each day during the continuance of such refusal, neglect, concealment, or removal; and if such court shall find that the neglect, refusal, or concealment, or the removal or destruction of data, books, records, papers, or other documents by such witness, has been occasioned by the advice or consent of any party to the proceedings before the commission, or in anywise aided or abetted by such party, then, in default of payment of such fine by the individual in contempt, the same shall be paid by such party and may be recovered from such party by an action in the name of the Commonwealth, in any court of common pleas, as other like fines and penalties are now by law recoverable. Imprisonment for contempt shall be by commitment to the county jail of the county in which such hearing is held.

**Source:** This section is derived from Section 1309 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3309. Liability for damages occasioned by unlawful acts.**

(a) General rule.—If any person or corporation shall do or cause to be done any act, matter, or thing prohibited or declared to be unlawful by this title, or shall refuse, neglect, or omit to do any act, matter, or thing enjoined or required to be done by this title, such person or corporation shall be liable to the person or corporation injured thereby in the full amount of damages sustained in consequence thereof. The liability of public utilities, contract carriers by motor vehicles, and brokers for negligence, as heretofore established by statute or by common law, shall not be held or construed to be altered or repealed by any of the provisions of this title.

(b) Rights of Commonwealth unaffected.—The recovery in this section authorized shall in no manner affect a recovery by the Com-

monwealth of the penalty prescribed in section 3301 (relating to civil penalties for violations) for such violations of this title.

**Source:** This section is derived from Section 1310 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3310. Unauthorized operation by carriers and brokers.**

Any person or corporation operating as a motor carrier or as a common carrier by airplane, and any operator or employee of such carrier, and any person or corporation operating as a broker, without a certificate of public convenience, permit or license, authorizing the service performed, as required by this title, shall be guilty of a summary offense, and any subsequent offense by such person or corporation shall constitute a misdemeanor of the third degree.

**Source:** This section is derived from Section 1311 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3311. Bribery.**

Any officer, attorney, agent, or employee of any public utility who offers to any commissioner, or to any person appointed or employed by the commission, any office, place, appointment, or position, or offers to give to any commissioner, or to any person employed in the service of the commission, any free pass or transportation, or any reduction in fares to which the public generally is not entitled, or any free carriage of property, or any present, gift, or gratuity, money, or valuable thing of any kind, shall be guilty of a misdemeanor of the third degree.

**Source:** This section is derived from Section 1314 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3312. Evasion of motor carrier and broker regulations.**

Any person, whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant or give, or solicit, accept, or receive any rebate, concession, or discrimination, in violation of any provision of this title with respect to motor carriers, or who, by means of false statements or representations or by use of false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and wilfully, assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of property by



motor carrier subject to this title, for less than the applicable rate, fare or charge, or who shall knowingly and wilfully, by any such means, or otherwise seek to evade or defeat regulation in this title provided for motor carriers or brokers, shall be guilty of a summary offense.

**Source:** This section is derived from Section 1315 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3313. Excessive price on resale.**

Any person, corporation or other entity violating the provisions of section 1313 (relating to price upon resale of public utility services) shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100 multiplied by the number of residential bills exceeding the maximum prescribed in section 1313.

**Source:** This section is derived from Section 2 of the act of 1972, March 28, P.L. 158.

**§ 3314. Limitation of actions and cumulation of remedies.**

(a) General rule.—No action for the recovery of any penalties or forfeitures incurred under the provisions of this title, and no prosecutions on account of any matter or thing mentioned in this title, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this title.

(b) Remedies and penalties cumulative.—All suits, remedies, prosecutions, penalties, and forfeitures provided for, or accruing under, this title, shall be cumulative.

**Source:** This section is derived from Section 1312 of the Public Utility Law, 1937, May 28, P.L. 1053.

**§ 3315. Disposition of fines and penalties.**

All fines imposed, and all penalties recovered, under the provisions of this title, shall be paid to the commission, and by it paid into the State Treasury, through the Department of Revenue, to the credit of the General Fund.

**Source:** This section is derived from Section 1313 of the Public Utility Law, 1937, May 28, P.L. 1053.

Section 2. Repeals.—The following acts are repealed:

Act of May 5, 1832 (P.L.501, No.189), entitled "An act regulating lateral Rail-Roads."

Act of February 19, 1849 (P.L.79, No.76), entitled "An act regulating railroad companies."

Act of December 16, 1863 (1864 P.L.1124, No. 962), entitled "An act in relation to feeding stock, while awaiting transportation on railroads."

Act of April 11, 1867 (P.L.69, No. 49), entitled "An act to regulate the carriage of baggage by railroad companies, and to prescribe the duties and obligations of carriers and passengers in relation thereto."

Act of May 15, 1874 (P.L.178, No.109), entitled "An act to enforce the sixth section of the seventeenth article of the constitution of this commonwealth, providing that no president, director, officer, agent or employee of any railroad or canal company shall be interested in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company."

Act of June 15, 1874 (P.L.289, No.176), entitled "An act to carry into effect section eight of article seventeen of the constitution, in relation to granting free passes or passes at a discount by railroad or other transportation companies."

Act of May 5, 1876 (P.L.116, No.87), entitled "An act regulating the passenger fare and freight rates on railroads operated by steam power, not exceeding fifteen miles in length."

Act of May 19, 1879 (P.L.71, No.80), entitled "An act to repeal all local or special laws regulating or fixing the rates of fare to be charged by city passenger railway companies, in cities of the third class."

Act of April 5, 1907 (P.L.59, No.52), entitled "An act to regulate the maximum rate and minimum fare to be charged for transportation of passengers by railroad companies, and prescribing the penalty for violation thereof."

Act of May 31, 1907 (P.L.352, No.252), entitled "An act to enforce the provisions of section five, article seventeen, of the Constitution of Pennsylvania, relating to the powers of incorporated common carriers and the privileges of mining and manufacturing companies; making the violation thereof a misdemeanor, and providing a punishment for the same."

Act of May 31, 1907 (P.L.352, No.253), entitled "An act to carry

into effect the provisions of section seven, article seventeen, of the Constitution of Pennsylvania, relating to discriminations and preferences in charges and facilities; and making the violation thereof a misdemeanor, and providing a penalty for the same."

Act of May 31, 1907 (P.L.353, No.254), entitled "An act to enforce the provisions of section four, article seventeen, of the Constitution of Pennsylvania, pertaining to the consolidation of parallel or competing lines of railroads, canals, or other companies, and restricting the officers of such companies; empowering juries to decide whether companies are parallel or competing lines; and making the violation thereof a misdemeanor, and providing a punishment for the same."

Act of May 31, 1907 (P.L.354, No.255), entitled "An act to carry into effect the provisions of section three, article seventeen, of the Constitution of Pennsylvania, relating to the transportation of persons and property; and making the violation thereof a misdemeanor, and providing a penalty for the same."

Act of June 1, 1907 (P.L.359, No.259), entitled "An act forbidding those officers, employes, or agents of any railroad company operating within this Commonwealth, who have charge, directly or indirectly, of the distribution of cars to shippers thereon, to own or have any interest, directly or indirectly, in any operated coal property, or in the stock of any mining or manufacturing company, along the line of such railroad; making the violation hereof a misdemeanor, and providing a punishment for the same."

Act of June 7, 1907 (P.L.464, No.313), entitled "An act to prevent discrimination by, and to regulate rates and charges for carrying freight and passengers by, narrow-gage railroads within the Commonwealth; and providing a remedy for the violation thereof."

Act of July 10, 1919 (P.L.901, No. 357), entitled "An act supplementary to the Public Service Company Law, approved the twenty-sixth day of July, Anno Domini one thousand nine hundred and thirteen, giving to the Public Service Commission the power, in the elimination of grade crossings, to direct the construction of bridges or viaducts over, above, and across railroads and railways, and, where necessary, across rivers and streams; and, in order to effect said elimination, to change the location to a new place or to another street or highway; and, where the said bridge or viaduct is located by the commission and directed to be constructed in the line of any street or highway which crosses a navigable river, or a stream which has been declared a public highway by act of Assembly, at a point where the Commonwealth has been authorized to construct a public bridge to replace a county bridge destroyed by flood or other

casualty, to provide for the payment by the Commonwealth of part of the cost of said improvement from appropriations made to the Board of Commissioners of Public Grounds and Buildings, the making of the contract, and the expenditure of said appropriation.”

Act of June 10, 1935 (P.L.291, No. 126), entitled “An act empowering private corporations hereafter formed and municipalities to establish, operate, and maintain foreign-trade zones in or adjacent to ports of entry of the United States in accordance with the act of Congress of the United States; and prescribing the powers and duties of such corporations and municipalities in connection therewith.”

Act of March 31, 1937 (P.L.160, No.43), entitled “An act creating a commission to be known as the Pennsylvania Public Utility Commission; defining in part the powers and duties of such commission; abolishing The Public Service Commission of the Commonwealth of Pennsylvania, terminating the terms of the members thereof, and transferring to the Pennsylvania Public Utility Commission the records, employes, property, and equipment of The Public Service Commission of the Commonwealth of Pennsylvania; authorizing the Pennsylvania Public Utility Commission to appear in and complete all pending proceedings, legal or otherwise, instituted before, by or against The Public Service Commission of the Commonwealth of Pennsylvania; providing that all certificates of public convenience, contracts, orders, and rules and regulations of the latter commission shall remain effective until repealed, changed or modified by the Pennsylvania Public Utility Commission, and transferring and appropriating to the Pennsylvania Public Utility Commission any unexpended balance of any existing appropriation to The Public Service Commission of the Commonwealth of Pennsylvania.”

Act of May 28, 1937 (P.L.1053, No. 286), known as the “Public Utility Law.”

Act of December 1, 1938 (Sp.Sess., P.L.111, No.45), entitled “An act making illegal the furnishing of certain telephone and telegraph wires and services by certain public utilities for use in the dissemination of information in furtherance of gambling; making it unlawful for any public utility to furnish private wires, except by written contract; conferring and imposing upon the Pennsylvania Public Utility Commission the power and duty to disapprove all contracts for private wires used for, or intended to be used for, the transmission of information or advices in furtherance of gambling; making illegal the furnishing of certain wires by certain public utilities after the disapproval of the contract therefor by the Pennsylvania

Public Utility Commission; making illegal the use of certain wires for purposes other than those specified in the written contract therefor; imposing penalties; making the dissemination of information pertaining to horse racing over certain wires prima facie evidence that the same is in furtherance of gambling; prescribing the burden of proof in proceedings hereunder; and providing for appeal.”

Act of June 5, 1943 (P.L.901, No.373), entitled “An act to regulate persons, partnerships and corporations engaged in the business of renting motor vehicles; authorizing the Public Utility Commission to administer and enforce the provisions of this act; and imposing penalties.”

Act of January 5, 1972 (1971 P.L.660, No. 174), entitled “An act requiring certain locomotives operating over thirty miles per hour to have certain equipment thereon by certain dates; requiring the maintenance of certain records thereof by railroads operating same, the notification of the Public Utility Commission thereof, and placing certain duties on that commission.”

Act of March 28, 1972 (P.L.158, No.60), entitled “An act limiting the rates at which certain entities other than public utilities may resell public utility service to residential consumers; and providing penalties.”

Section 3. Effective date.—This act shall take effect in 60 days.

# Appendix: Cross-Reference Tables

These tables compare sections of selected laws (as last amended) with their disposition in Purdon’s Pennsylvania Statutes Annotated and in the proposed Title 66 of the Pennsylvania Consolidated Statutes—the Public Utility Code.

The sections of the acts starred (\*) are sections omitted from the Public Utility Code as unnecessary, duplicative, held unconstitutional or covered by rules of court or laws other than the code.

**PUBLIC UTILITY LAW  
66 PURDON’S STATUTES AND  
PENNSYLVANIA CONSOLIDATED STATUTES, TITLE 66**

Public Utility Law	66 Purdon’s Statutes	Pennsylvania Consolidated Statutes, Title 66
Section	Section	Section
1	1101	101
2	1102	102, 2101, 2501
201	1121	1101
202	1122	1102
203	1123	1103
204	1124	1104
301	1141	1301
302	1142	1302
303	1143	1303
304	1144	1304
305	1145	1305
306	1146	1306
307	1147	1307
308	1148	1308
309	1149	1309
310	1150	1310
311	1151	1311
312	1152	315(a)

Public Utility Law	66 Purdon's Statutes	Pennsylvania Consolidated Statutes, Title 66
Section	Section	Section
313	1153	1312
401	1171	1501
402	1172	1502
402.1	1172.1	1503
403	1173	2301
404	1174	2302
405	1175	2303
406	1176	2701
407	1177	2304
408	1178	2904
409	1179	2702
410	1180	2703
411	1181	2704
412	1182	1504
413	1183	1505
414	1184	1506
415	1185	1507
416	1186	1508
417	1187	514
418	1188	*
419	1189	2305
420	1190	315(c)
501	1211	1701
502	1212	1702
503	1213	1703
504	1214	1704
505	1215	315(d)
506	1216	1705
507	1217	505, 506
508	1218	1706
601	1241	1901
602	1242	1902
603	1243	1903
604	1244	1904

<b>Public Utility Law</b>	<b>66 Purdon's Statutes</b>	<b>Pennsylvania Consolidated Statutes, Title 66</b>
<b>Section</b>	<b>Section</b>	<b>Section</b>
701	1271	2102
702	1272	2103
703	1273	2104
704	1274	103
705	1275	2106
706	1276	2105
801	1301	*
802	1302	2502(a)
803	1303	2502(b)
804	1304	2503
805	1305	2504
806	1306	2505(a)(b)(c)
807	1307	2505(d)
808	1308	*
809	1309	2506
810	1310	2507
811	1311	2508
812	1312	*
813	1313	2509
901	1341	501(b)
902	1342	501(a)
903	1343	502
904	1344	503
905	1345	504
906	1346	505
907	1347	*
908	1348	506
909	1349	304(b)
910	1350	507
911	1351	508
912	1352	510(a)
913	1353	313
914	1354	314
915	1355	513



<b>Public Utility Law</b>	<b>66 Purdon's Statutes</b>	<b>Pennsylvania Consolidated Statutes, Title 66</b>
<b>Section</b>	<b>Section</b>	<b>Section</b>
916	1356	307
917	1357	103
918	1358	*
919	1359	318(c)
920	1360	509
921	1361	315(b)
922	1362	318(a)
1001	1391	701
1002	1392	702
1003	1393	703(a)(b)
1004	1394	703(c)
1005	1395	703(e)
1006	1396	703(f)
1007	1397	703(g)
1008	1398	308(b)
1009	1399	309
1010	1400	310
1011	1401	311
1012	1402	312
1013	1403	703(d)
1014	1404	702
1101	1431	901
1102	1432	*
1103	1433	*
1104	1434	*
1105	1435	*
1106	1436	*
1107	1437	*
1108	1438	*
1109	1439	*
1110	1440	902
1111	1441	*
1112	1442	316

<b>Public Utility Law</b>	<b>66 Purdon's Statutes</b>	<b>Pennsylvania Consolidated Statutes, Title 66</b>
<b>Section</b>	<b>Section</b>	<b>Section</b>
1201	1461	511
1202	1462	317
1203	1463	510(b)
1204	1464	512
1301	1491	3301(a)(b)
1302	1492	3302
1303	1493	3303
1304	1494	3304
1305	1495	3305
1306	1496	3306
1307	1497	3307
1308	1498	*
1309	1499	3308
1310	1500	3309
1311	1501	3310
1312	1502	3314
1313	1503	3315
1314	1504	3311
1315	1505	3312
1316	1506	3301(c)(d)
1401	1531	103
1402	1532	104
1403	1533	*
1404	1534	103
1405	1535	*
1501	1561	*
1502	1562	*

**PENNSYLVANIA PAMPHLET LAWS  
PURDON'S STATUTES AND  
PENNSYLVANIA CONSOLIDATED STATUTES, TITLE 66**

Pennsylvania Pamphlet Laws	66 Purdon's Statutes	Pennsylvania Consolidated Statutes, Title 66
Section	Section	Section
1935, June 10		
P.L. 291, §1	183	3102
2	184	3103
3	185	3104
4	186	3101
5	187	3105
6	188	*
1937, March 31		
P.L. 160, §1	452	301,302
2	453	301
3	454	301
4	455	303
5	456	*
6	457	305,304(a)
7	458	308(b)(c)
8	459	308(a)
9	460	306
10	461	501
11	462	318(b)
12	463	*
13	464	*
1938, Sp. Sess.		
Dec. 1, P.L. 111, §1	1701	2901
2	1702	2902
3	1703	2903(a)(b)
4	1704	2903(c)

Pennsylvania Pamphlet Laws	66 Purdon's Statutes	Pennsylvania Consolidated Statutes, Title 66
Section	Section	Section
Dec. 1, P.L. 111, § 5	1705	2903(d)
6	1706	2903(e)
7	1707	2902
8	1708	2902
9	1709	*
10	1710	*
11	1711	*
12	1712	*
1972, March 28		
P.L. 158, § 1	1751	1313
2	1752	3313
1972, January 5		
P.L. 660, § 1	2191	*
2	2192	2705(a)
3	2193	*
4	2194	2705(b)
5	2195	2705(c)
6	2196	2705(d)
7	2197	2705(e)
1863, Dec. 16		
P.L. 1124, § 1	2103	*
1907, June 1		
P.L. 359, § 1	2111	*
2	2112	*
1874, May 15		
P.L. 178, § 1	2113	*
2	2114	*
3	2115	*

Pennsylvania Pamphlet Laws	66 Purdon's Statutes	Pennsylvania Consolidated Statutes, Title 66
Section	Section	Section
1849, Feb. 19		
P.L. 79, §18	2131	*
1867, April 11		
P.L. 69, §1	2134	*
2	2135	*
3	2136	*
1907, May 31		
P.L. 352, §1	2137	*
2	2138	*
3	2139	*
1907, May 31		
P.L. 353, §1	2151	*
2	2152	*
1876, May 5		
P.L. 116, §1	2171	*
1907, April 5		
P.L. 59, §1	2172	*
2	2173	*
1907, June 7		
P.L. 464, §1	2174	*
2	2175	*

Pennsylvania Pamphlet Laws	66 Purdon's Statutes	Pennsylvania Consolidated Statutes, Title 66
Section	Section	Section
1907, May 31		
P.L. 354, §1	2176	*
2	2177	*
1907, May 31		
P.L. 352, §1	2178	*
2	2179	*
1874, June 15		
P.L. 289, §1	2180	*
1879, May 19		
P.L. 71, §1	2181	*
1943, June 7		
P.L. 901, §1		*
2		*
3		*
4		*
5		*
6		*
7		*
8		*
9		*
10		*
11		*