
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2401 Session of
1976

INTRODUCED BY SCIRICA AND STAPLETON, MAY 26, 1976

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MAY 26, 1976

AN ACT

1 To provide for the regulation of intrastate communication by
2 wire, cable and other electronic means, and for other
3 purposes.

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

1 ARTICLE I

2 GENERAL PROVISIONS

3 Section 101. Short Title.--This act shall be known and may
4 be cited as the "Pennsylvania Telecommunications Act."

5 Section 102. Purposes of Act; Declaration of Legislative
6 Findings and Intent.--Upon investigation of the public interest
7 associated with telecommunications the General Assembly of the
8 Commonwealth of Pennsylvania has determined that for the purpose
9 of regulating intrastate transmission of communications at a
10 distance, otherwise than by mail, there exists a need for a
11 commission to be created which shall execute and enforce the
12 provisions of this act. The General Assembly has determined that
13 the telecommunications system serves in part as an extension of
14 interstate broadcasting, and in part as a public utility engaged
15 for hire in the conveying or transmitting of messages or
16 communications by telephone, telegraph, or other means for the
17 public; that operations involve public rights-of-way, State and
18 municipal franchising and vital business and community services,
19 and therefore, are of State concern; that while said operations
20 must be subject to State regulations and oversight, they must
21 also be protected from undue restraint and regulation so as to
22 assure communications systems with optimum technology and to
23 make available, so far as possible, to the people of
24 Pennsylvania, an efficient, integrated, State-wide communication
25 system and service with adequate facilities at reasonable
26 charges as rapidly as economically and technically feasible;
27 that the municipalities and the State would benefit from
28 valuable education and public services through an integrated
29 communication network; that the public and business community
30 would benefit if served by a communications system sufficient to

1 meet the needs of producers and distributors of program and
2 other communication content services; and that the
3 telecommunications industry is in a period of rapid development
4 as well as corporate consolidation and should proceed in accord
5 with regional and State-wide telecommunication service
6 objectives; and, many municipalities lack the necessary
7 resources and expertise to plan for and secure these benefits,
8 and to protect consumers and other parties to the public
9 interest. There is, therefore, a need for a State agency to
10 develop a State telecommunications policy; to promote the rapid
11 development and integration of communication technologies
12 responsive to community and public interest and consonant with
13 policies, regulations and statutes of the Federal Government; to
14 assure that the telecommunications companies provide adequate,
15 economical and efficient service to their customers, the
16 municipalities within which they operate, and fulfill their
17 responsibilities to the public interest; and to encourage the
18 endeavors of public and private institutions, municipalities,
19 associations and organizations in developing uses in the public
20 interest. It is the intent of the General Assembly in this act
21 to vest authority in the Pennsylvania Telecommunications
22 Commission to supervise and regulate persons or corporations now
23 or hereafter owning or operating in this Commonwealth equipment,
24 or facilities for conveying or transmitting messages or
25 communications by telephone or telegraph for the public for
26 compensation; to oversee the development of the cable television
27 industry in Pennsylvania; to promote competition as an important
28 component of the public interest standard; to review the
29 suitability of practices for franchising cable companies; to
30 repeal all provisions of the Pennsylvania Public Utilities Act,

1 as amended, in so far as they relate to communication by
2 telephone or telegraph; to provide for the regulation and
3 supervision of all communications public utilities or any other
4 person or corporation engaged in a telephone or telegraph
5 business within this Commonwealth; to review the suitability of
6 practices for local franchising of cable companies; to set
7 standards for cable television systems and franchise practices,
8 renewals and amendments; to make such regulations, not
9 inconsistent with the law, as may be necessary or proper in the
10 exercise of its powers or for the performance of its duties
11 under this act; to limit cross ownership and concentration of
12 power in the field of telecommunications which is not in the
13 public interest; to assure that cable television systems meet
14 minimum Federal requirements; to assure that municipal
15 franchising results in communication across metropolitan areas
16 and in neighborhood communities in larger municipalities; to
17 provide consultant services to community organizations and
18 municipalities in cable television franchise negotiations, while
19 preserving the local role of an essentially local service; to
20 stimulate the development of community interest in the
21 development of cable communication and to provide for
22 experimental and innovative use, and generally encourage the
23 larger and more efficient use of cable communication in the
24 public interest.

25 Section 103. Definitions.--The following words, terms and
26 phrases shall have the meanings ascribed to them in this
27 section, unless the context clearly indicates otherwise:

28 "Affiliated interest" means

29 (i) any person or corporation who or which owns or controls,
30 directly or indirectly, 5% or more of the voting capital stock

1 of a communications public utility or cable operation;

2 (ii) any corporation, 5% or more of the voting capital stock
3 of which is owned or controlled, directly or indirectly, by any
4 person or corporation who or which owns or controls, directly or
5 indirectly, 5% or more of the voting capital stock of a
6 communications public utility or cable operation;

7 (iii) any corporation, 5% or more of the voting capital
8 stock of which is owned or controlled, directly or indirectly,
9 by a communications public utility or cable company;

10 (iv) any person or corporation who or which, either singly
11 or in conjunction with one or more other persons or
12 corporations, in exercising any substantial influence over the
13 policies, acts, or actions of a communications public utility or
14 cable company, or stands in such relationship to the
15 communications public utility or cable company that there is an
16 absence of free and equal bargaining power between him or it and
17 the communications public utility or cable company: Provided,
18 however, That any communications public utility or cable
19 company, prior to contracting with any person or corporation,
20 may apply to the commission for a determination as to whether or
21 not such person or corporation is an affiliated interest, as
22 herein defined; and

23 (v) any director, officer, or employee of an affiliated
24 interest, as herein defined.

25 "Cable television company" or "cable communications company"
26 means any person or municipality owning, controlling, operating,
27 managing, or leasing or seeking a franchise to operate or
28 construct a cable television system in the State.

29 "Cable television system" and "cable communications system"
30 mean any system which operates for hire the service of receiving

1 and amplifying programs broadcast or transmitted by one or more
2 television or radio stations or any other programs or material
3 originated by a cable television company, or by another party,
4 and distributing such programs by wire, cable microwave, optical
5 fiber or other means, whether such means are owned or leased, to
6 persons who subscribe to such service. The term "cable
7 television system" does not include:

8 (i) any master antenna television system; or

9 (ii) the poles or other facilities of any communications
10 public utilities used to provide channel service as a common
11 carrier.

12 "Certificate of public convenience" means a certificate
13 issued by the commission to communications public utilities
14 pursuant to this act.

15 "Commission" means the Pennsylvania Telecommunications
16 Commission of this Commonwealth.

17 "Commissioner" means one of the members of the Pennsylvania
18 Telecommunications Commission.

19 "Communication common carrier" or "carrier" means any person
20 engaged as a common carrier for conveying or transmitting
21 messages or communications by telephone or telegraph for the
22 public for compensation; but a person engaged in cable
23 television shall not be deemed a carrier.

24 "Communications public utility" or "public utility" means
25 persons or corporations now or hereafter owning or operating in
26 this Commonwealth as a communication common carrier.

27 "Contract with an affiliated interest" means any agreement or
28 contract, written or oral, express or implied, entered into by
29 any public utility or cable firm and an affiliated interest for
30 the purchase, sale, payment, lease, loan, or exchange of any

1 service, property, money, security, right, or thing.

2 "Corporation" means all bodies corporate, joint-stock
3 companies, or associations, domestic or foreign, their lessees,
4 assignees, trustees, receivers, or other successors in interest,
5 having any of the powers or privileges of corporations not
6 possessed by individuals or partnerships, but shall not include
7 municipal corporations, except as otherwise expressly provided
8 in this act, nor bona fide cooperative associations which
9 furnish service on a nonprofit basis only to their stockholders
10 or members.

11 "Facilities" means all the plant and equipment of a
12 communications public utility or a cable company, including all
13 real and personal property without limitation, and any and all
14 means and instrumentalities in any manner owned, operated,
15 leased, licensed, used, controlled, furnished, or supplied for,
16 by, or in connection with, the business of any communications
17 public utility or cable firm: Provided, however, That no
18 property owned by the Commonwealth of Pennsylvania at the date
19 when this act becomes effective shall be subject to the
20 commission or to any of the terms of this act, except as
21 elsewhere provided herein.

22 "Franchise" shall mean and include any authorization granted
23 by a municipality in terms of a franchise, privilege, permit,
24 license or other municipal authorization to construct, operate,
25 maintain, or manage a cable television system in any
26 municipality.

27 "Franchise confirmation" or "confirmation of franchise" means
28 a confirmation issued by the Telecommunications Commission to
29 cable television companies pursuant to this act.

30 "Gross annual receipts" shall mean and include any and all

1 compensation received directly or indirectly by a cable
2 television company from its operations within the State,
3 including but not limited to sums received from subscribers or
4 users in payment for programs received or transmitted,
5 advertising and carrier service revenue and any other moneys
6 that constitute income in accordance with the system of accounts
7 approved by the commission. Gross annual receipts shall not
8 include any taxes on services furnished by a cable television
9 company imposed directly on any subscriber or user by any
10 municipality, State, or other governmental unit and collected by
11 the company for such governmental unit.

12 "Highway" means every way or place, of whatever nature, open
13 to the use of the public as a matter of right for purposes of
14 vehicular travel.

15 "Master antenna television system" shall mean any system
16 which serves only the residents of one or more apartment
17 dwellings under common ownership, control or management and any
18 commercial establishment located on the premises of such
19 apartment house and which transmits only signals broadcast over
20 the air by stations which may be normally viewed or heard
21 locally without objectionable interference, and which does not
22 provide any additional service over its facilities.

23 "Municipal corporation" means all cities, boroughs, towns or
24 townships of this Commonwealth, and also any public corporation,
25 authority, or body whatsoever created or organized under any law
26 of this Commonwealth for the purpose of rendering any service
27 similar to that of a communications public utility or cable
28 television company.

29 "Municipality" shall mean any city, borough, town or township
30 in the State.

1 "Person" means individuals, partnerships, associations,
2 municipalities, or corporations, and includes their lessees,
3 assignees, trustees, receivers, executors, administrators, or
4 other successors in interest.

5 "Program" shall mean any broadcast or cablecast-type program,
6 signal, message, graphics, data, computer-generated or
7 communication content service.

8 "Rate" means every individual, or joint fare, toll, charge,
9 rental, or other compensation whatsoever of any communications
10 public utility or cable television company, made, demanded, or
11 received for any service within this act, offered, rendered, or
12 furnished by such communications public utility or cable
13 company, whether in currency, legal tender, or evidence thereof,
14 in kind, in services or in any other medium or manner
15 whatsoever, and whether received directly, or indirectly, and
16 any rules, regulations, practices, classifications or contracts
17 affecting any such compensation, charge, fare, toll, or rental.

18 "Service" is used in this act in its broadest and most
19 inclusive sense, and includes any and all acts done, rendered,
20 or performed, and any and all things furnished or supplied, and
21 any and all facilities used, furnished, or supplied by
22 communications public utilities or cable television companies,
23 in the performance of their duties under this act to their
24 patrons, employees, other public utilities or cable companies,
25 and the public, as well as the interchange of facilities between
26 two or more of them.

27 "State" shall mean the Commonwealth of Pennsylvania.

28 "State agency" means any office, department, board,
29 commission, bureau, division, public corporation, agency or
30 instrumentality of the State.

1 "Tariff" means all schedules of rates, all rules,
2 regulations, practices, or contracts involving any rate or
3 rates, including contracts for interchange of service.

4 "Wire communication" or "communication by wire" means the
5 transmission of writing, signs, signals, pictures, and sounds of
6 all kinds by aid of wire, cable, or other like connection
7 between the points of origin and reception of such transmission
8 including all instrumentalities, facilities, apparatus, and
9 services incidental to such transmission.

10 Section 104. Applications of Act.--The provisions of this
11 act shall apply to every communications common carrier, and
12 every cable television company operating or seeking a franchise
13 to operate within the State. Persons possessing franchises for
14 any purpose contemplated by this act shall be deemed to be
15 subject to the provisions of this act although no property may
16 have been acquired, business or franchises exercised.

17 Section 105. Telecommunications Commission Created.--(a) The
18 Pennsylvania Telecommunications Commission shall be composed of
19 five commissioners, appointed by the Governor, by and with the
20 advice and consent of the Senate, one of whom the Governor shall
21 designate as chairman.

22 (b) The members of the commission shall be representative of
23 the broad range of interest related to telecommunications needs
24 and concerns, none of whom shall hold any other public office.

25 (c) No member of the commission or person in its employ
26 shall be financially interested in the manufacture or sale of
27 radio apparatus or apparatus for wire or radio communication for
28 wire; in communication by wire or radio or in radio transmission
29 of energy; in any company furnishing services or such apparatus
30 to any company engaged in communication by wire or radio or to

1 any company manufacturing or selling apparatus used for
2 communication by wire or radio; or in any company owning stocks,
3 bonds, or other securities of any such company; nor be in the
4 employ of or hold any official relation to any person subject to
5 any of the provisions of this act, nor own stocks, bonds, or
6 other securities of any corporation subject to any of the
7 provisions of this act. Such commissioners shall not engage in
8 any other business, vocation, or employment. Not more than three
9 commissioners shall be members of the same political party.

10 (d) Each member shall be appointed by the Governor for five
11 years; provided, however, that of the five members first
12 appointed, one shall be appointed for one year, one for two
13 years, one for three years, one for four years and one for five
14 years, from January 1 next succeeding their appointment.

15 Thereafter members shall be appointed for terms of five years
16 each. Members shall continue in office until their successors
17 have been appointed and qualified. The members shall elect one
18 member as vice chairman of the commission.

19 (e) Vacancies of the commission occurring otherwise than by
20 expiration of term shall be filled for the unexpired term in the
21 same manner as original appointment.

22 (f) The chairman and the other members of the commission
23 shall receive compensation fixed by the Executive Board.

24 (g) A majority of the members of the commission then in
25 office shall constitute a quorum for the transaction of any
26 business or the exercise of any power or function of the
27 commission. The commission may delegate to one or more of its
28 members, or its officers, agents or employees, such powers and
29 duties as it may deem appropriate.

30 (h) The commission may appoint an executive director and

1 counsel, as well as such other officers, employees, agents and
2 consultants as it may deem necessary, prescribe their duties and
3 fix their compensation within the amounts available therefore by
4 appropriation.

5 (i) The commission may appoint employees, agents and
6 consultants as it may deem necessary in the unclassified service
7 of the State.

8 (j) The commission shall be appointed and established within
9 one month of the effective date of this act. The principal
10 office of the commission shall be in Harrisburg, where its
11 general sessions shall be held; but whenever the convenience of
12 the public or of the parties may be promoted, or delayed or
13 expense prevented thereby, the commission may hold special
14 sessions in any part of the Commonwealth.

15 Section 106. Duties of the Telecommunications Commission.--
16 The commission shall:

17 (1) Develop and maintain a Statewide plan for development of
18 telecommunications services, setting forth the objectives which
19 the commission deems to be of regional and State concern.

20 (2) Conduct its proceedings in such manner as will best
21 assure the proper dispatch of business and to the ends of
22 justice. No commissioner shall participate in any hearing or
23 proceeding in which the commission determines a conflict of
24 interest exists. Any party may appear before the commission and
25 be heard in person or by attorney. Every vote and official act
26 of the commission shall be entered of record, and its
27 proceedings shall be public upon the request of any party
28 interested.

29 (3) Make an annual report to the General Assembly, copies of
30 which shall be made public. Such report shall contain such

1 information and data collected by the commission as may be
2 considered of value in the determination of questions connected
3 with the regulation and development of intrastate wire
4 communications together with such recommendations as to
5 additional legislation relating thereto as the commission may
6 deem necessary. All reports of investigations made by the
7 commission shall be made public, and a copy thereof shall be
8 furnished to the party who may have complained, and to any
9 communications public utility or cable television company that
10 may have been the subject of a complaint.

11 (4) Provide for the publication of its reports and decisions
12 in such form and manner as may be best adapted for public
13 information and use, and such authorized publications shall be
14 competent evidence of the reports and decisions of the
15 commission.

16 (5) Have general administrative power and authority to
17 supervise and regulate communications public utilities and cable
18 television companies doing business within this Commonwealth.

19 (6) Make such regulations not inconsistent with the law, as
20 may be necessary or proper in the exercise of its powers or for
21 the performance of its duties under this act.

22 (7) Assist in the enforcement of minimum requirements set up
23 by the Federal Communications Commission, and to the extent
24 permitted by Federal law, rules and regulations with regard to
25 cable television systems.

26 (8) Prescribe standards for procedures and practices which
27 municipalities shall follow in granting franchises.

28 (9) Prescribe minimum standards for inclusion in cable
29 franchises.

30 (10) Prescribe standards for the construction and operation

1 of cable communication systems.

2 (11) Prescribe such standards for the prohibition or
3 limitation of concentration of control over mass media and
4 communication companies and facilities and methods of enforcing
5 such standards, as the commission may determine to be necessary
6 or appropriate to protect the public interest.

7 (12) Provide advice and technical assistance to
8 municipalities and community organizations in matters relating
9 to cable television franchises and services.

10 (13) Review and act upon applications for certificates of
11 confirmation by cable communication companies.

12 (14) Represent the interests of the people of the State
13 before the Federal Communication Commission and make available
14 information on communications developments at the Federal level.

15 (15) Stimulate and encourage cooperative arrangements among
16 organizations, institutions and municipalities in the
17 development of regional educational, instructional and public
18 affairs programming services.

19 (16) Maintain liaison with the communications industry and
20 parties both public and private, having an interest therein,
21 with other states and agencies of this State to promote the
22 rapid and harmonious development of telecommunications services
23 as set forth in the legislative findings and intent.

24 (17) Undertake such studies as may be necessary to meet the
25 responsibilities and objectives of this article.

26 (18) Review and act upon applications for certificates of
27 public convenience by communications public utilities.

28 (19) Determine just and reasonable rates for communications
29 public utilities pursuant to the provisions of this act.

30 (20) Promulgate rules and regulations with regard to

1 communications public utilities pursuant to the provisions of
2 this act.

3 (21) Cooperate with municipalities to facilitate undertaking
4 of multiple community cable communication systems.

5 (22) Preserve and promote competition as an important
6 component of the public interest standard of this act.

7 Section 107. Powers of the Telecommunications Commission
8 Relating to Communications Companies.--The commission shall
9 exercise such powers for the purposes of supervising and
10 regulating communications public utilities and cable
11 communications companies as are enumerated in Article II and
12 Article III of this act.

13 Section 108. Divisions of the Telecommunications
14 Commission.--There shall be established within the commission,
15 in addition to the commissioners' offices, the following
16 divisions: A Review Board to act as an intermediate reviewing
17 agency for adjudicatory cases; an Office of Opinions and Review;
18 an Office of Hearing Examiners; an Office of Information; the
19 Office of the Executive Director; the Office of Secretary;
20 Office of Chief Engineer; Office of General Counsel; Public
21 Utility Bureau; Cable Bureau; and a Bureau of Research and
22 Planning.

23 ARTICLE II

24 COMMUNICATIONS PUBLIC UTILITIES

25 Section 201. Certificates of Public Convenience.--(a) Upon
26 the application of any proposed communications public utility
27 and the approval of such application by the commission evidenced
28 by its certificate of public convenience first had and obtained,
29 and not otherwise, it shall be lawful for any such proposed
30 communications public utility to begin to offer, render,

1 furnish, or supply service within this Commonwealth.

2 The commission's certificate of public convenience granted
3 under the authority of this section shall include a description
4 of the nature of the service and of the territory in which it
5 may be offered, rendered, furnished or supplied.

6 (b) Upon the application of any communications public
7 utility and the approval of such application by the commission,
8 evidenced by its certificate of public convenience first had and
9 obtained, and upon compliance with existing laws, and not
10 otherwise, it shall be lawful:

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

15 (i) a certificate of public convenience heretofore or
16 hereafter granted under this act or under the act of May 28,
17 1937 (P.L.1053, No.286), known as the "Public Utility Law";

18 (ii) a registration certificate granted by the commission
19 under this act; or

20 (iii) an unregistered right, power or privilege preserved by
21 this act.

22 (2) For any communications public utility to abandon or
23 surrender, in whole or in part, any service: Provided, That the
24 provisions of this paragraph shall not apply to discontinuance
25 of service to a patron for nonpayment of a bill, or upon request
26 of a patron.

27 (3) For any communications public utility to begin the
28 construction, installation, or operation of any new plant or
29 system, or the construction or installation of any extension,
30 improvement, or addition to its existing plant or system, or to

1 acquire from, or transfer to, any person or corporation,
2 including a municipal corporation, by any method or device
3 whatsoever (including among other things a consolidation,
4 merger, sale or lease) the title to, or the possession or use
5 of, any tangible or intangible property whatsoever.

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

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

12 (c) Every application for a certificate of public
13 convenience shall be made to the commission in writing, be
14 verified by oath or affirmation, and be in such form, and
15 contain such information, as the commission may require by its
16 regulations. A certificate of public convenience shall be
17 granted by order of the commission, only if and when the
18 commission shall find or determine that the granting of such
19 certificate is necessary or proper for the service,
20 accommodation, convenience, or safety of the public; and the
21 commission, in granting such certificate, may impose such
22 conditions as it may deem to be just and reasonable. In every
23 case, the commission shall make a finding or determination in
24 writing, stating whether or not its approval is granted. Any
25 holder of a certificate of public convenience, exercising the
26 authority conferred by such certificate, shall be deemed to have
27 waived any and all objections to the terms and conditions of
28 such certificate.

29 For the purpose of enabling the commission to make such
30 finding or determination, it shall hold such hearings, which

1 shall be public, and before or after hearing, it may make such
2 inquiries, physical examinations, valuations, and
3 investigations, and may require such plans, specifications, and
4 estimates of cost, as it may deem necessary or proper in
5 enabling it to reach a finding or determination.

6 Section 202. Rates and Rate Making.--(a) Every rate made,
7 demanded, or received by any communications public utility, or
8 by any two or more communications public utilities jointly,
9 shall be just and reasonable, and in conformity with regulations
10 or orders of the commission.

11 (b) Under such regulations as the commission may prescribe,
12 every communications public utility shall file with the
13 commission, within such time and in such form as the commission
14 may designate, tariffs showing all rates established by it and
15 collected or enforced, or to be collected or enforced, within
16 the jurisdiction of the commission. The tariffs of any
17 communications public utility also subject to the jurisdiction
18 of a Federal regulatory body shall correspond, so far as
19 practicable, to the form of those prescribed by such Federal
20 regulatory body. Every communications public utility shall keep
21 copies of such tariffs open to public inspection under such
22 rules and regulations as the commission may prescribe.

23 (c) No communications public utility shall, directly or
24 indirectly, by any device whatsoever, or in anyway, demand or
25 receive from any person, corporation, or municipal corporation a
26 greater or lesser rate for any service rendered or to be
27 rendered by such communications public utility than that
28 specified in the tariffs of such communications public utility
29 applicable thereto then filed in the manner provided in this
30 act. The rates specified in such tariffs shall be the lawful

1 rates of such communications public utility until changed, as
2 provided in this act: Provided, That any communications public
3 utility, having more than one rate applicable to service
4 rendered to a patron, shall, after notice of service conditions,
5 compute bills under the rate most advantageous to the patron.

6 (d) No communications public utility shall, as to rates,
7 make or grant any unreasonable preference or advantage to any
8 person, corporation, or municipal corporation, or subject any
9 person, corporation, or municipal corporation to any
10 unreasonable prejudice or disadvantage. No communications public
11 utility shall establish or maintain any unreasonable difference
12 as to rates, either as between localities or as between classes
13 of service. Unless specially authorized by the commission, no
14 communications public utility shall make, demand, or receive any
15 greater rate in the aggregate for the transmission of any
16 message or conversation for a shorter than for a longer distance
17 over the same line or route in the same direction, the shorter
18 being included within the longer distance, or any greater rate
19 as a through rate than the aggregate of the intermediate rates.
20 Nothing herein contained shall be deemed to prohibit the
21 establishment of reasonable zone or group systems, or
22 classifications of rates. No rate charged by a municipality for
23 any communications public utility service rendered or furnished
24 beyond its corporate limits shall be considered unjustly
25 discriminatory solely by reason of the fact that a different
26 rate is charged for a similar service within its corporate
27 limits.

28 (e) No communications public utility shall require the
29 payment of rates in advance, or the making of minimum payments,
30 ready to serve charges, or deposits to secure future payments of

1 rates, except as the commission, by regulation or order, may
2 permit: Provided, That any deposit made by any domestic
3 consumer, under the provisions of this section or under any act
4 repealed by this act, shall be returned with any interest due
5 thereon to the consumer making such deposit when he shall have
6 paid undisputed bills for service over a period of 12
7 consecutive months.

8 (f) Where communications public utilities entitled to share
9 in any joint rate shall be unable to agree upon the division
10 thereof, or shall make any unjust or unreasonable division or
11 apportionment thereof, the commission may, after hearing, upon
12 its own motion or upon complaint, fix the proportion to which
13 each communications public utility shall be entitled.

14 (g) Any communications public utility may establish a
15 sliding scale of rates or such other method for the automatic
16 adjustment of the rates of the communications public utility as
17 shall provide a just and reasonable return on the fair value of
18 the property used and useful in the public service, to be
19 determined upon such equitable or reasonable basis as shall
20 provide such fair return: Provided, That a tariff showing the
21 scale of rates under such arrangement is first filed with the
22 commission, and such tariff, and each rate set out therein,
23 approved by it. The commission may revoke its approval at any
24 time and fix other rates for any such communications public
25 utility if, after notice and hearing, the commission finds the
26 existing rates unjust or unreasonable.

27 (h) The commission, by regulation or order, upon reasonable
28 notice and hearing, may prescribe for any class of
29 communications public utilities, a mandatory system for the
30 automatic adjustment of their rates, by means of a sliding scale

1 of rates or other method, on the same basis as provided in
2 subsection (g), to become effective when and in the manner
3 prescribed in such regulation or order. Every such
4 communications public utility shall, within such time as shall
5 be prescribed by the commission, file tariffs showing the rates
6 established in accordance with such regulation or order.

7 (i) Unless the commission otherwise orders, no
8 communications public utility shall make any change in any
9 existing and duly established rate, except after 60 days' notice
10 to the commission, which notice shall plainly state the changes
11 proposed to be made in the rates then in force, and the time
12 when the changed rates will go into effect. The communications
13 public utility shall also give such notice of the proposed
14 changes to other interested persons as the commission in its
15 discretion may direct. All proposed changes shall be shown by
16 filing new tariffs, or supplements to existing tariffs filed and
17 in force at the time. The commission, for good cause shown, may
18 allow changes in rates, without requiring the 60 days' notice,
19 under such conditions as it may prescribe.

20 (j) Whenever there is filed with the commission by any
21 communications public utility any tariff stating a new rate, the
22 commission may, either upon complaint or upon its own motion,
23 upon reasonable notice, enter upon a hearing concerning the
24 lawfulness of such rate, and pending such hearing and the
25 decision thereon, the commission, upon filing with such tariff
26 and delivering to the communications public utility affected
27 thereby a statement in writing of its reasons therefor, may, at
28 any time before it becomes effective, suspend the operation of
29 such rate for a period not longer than six months from the time
30 such rate would otherwise become effective, and an additional

1 period of not more than three months pending such decision. The
2 rate in force when the tariff stating the new rate was filed
3 shall continue in force during the period of suspension, unless
4 the commission shall establish a temporary rate. The commission
5 shall consider the effect of such suspension in finally
6 determining and prescribing the rates to be thereafter charged
7 and collected by such communications public utility.

8 (k) Whenever the commission, after reasonable notice and
9 hearing, upon its own motion or upon complaint, finds that the
10 existing rates of any communications public utility for any
11 service are unjust, unreasonable, or in anyway in violation of
12 any provision of law, the commission shall determine the just
13 and reasonable rates (including maximum or minimum rates) to be
14 thereafter observed and in force, and shall fix the same by
15 order to be served upon the communications public utility, and
16 such rates shall constitute the legal rates of the
17 communications public utility until changed as provided in this
18 act. Whenever a communications public utility does not itself
19 produce or generate that which it distributes, transmits, or
20 furnishes to the public for compensation, but obtains the same
21 from another source, the commission shall have the power and
22 authority to investigate the cost of such production or
23 generation in any investigation of the reasonableness of the
24 rates of such communications public utility.

25 (l) The commission may, in any proceeding involving the
26 rates of a communications public utility brought either upon its
27 own motion or upon complaint, after reasonable notice and
28 hearing, if it be of opinion that the public interest so
29 requires, immediately fix, determine, and prescribe temporary
30 rates to be charged by such public utility, pending the final

1 determination of such rate proceeding. Such temporary rates, so
2 fixed, determined, and prescribed, shall be sufficient to
3 provide a return of not less than 5% upon the original cost,
4 less accrued depreciation, of the physical property (when first
5 devoted to public use) of such communications public utility,
6 used and useful in the public service, and if the duly verified
7 reports of such communications public utility to the commission
8 do not show such original cost, less accrued depreciation, of
9 such property, the commission may estimate such cost less
10 depreciation and fix, determine, and prescribe rates as
11 hereinbefore provided.

12 (m) If any communications public utility does not have
13 continuing property records, kept in the manner prescribed by
14 this act, then the commission, after reasonable notice and
15 hearing, may establish temporary rates which shall be sufficient
16 to provide a return of not less than an amount equal to the
17 operating income for the previous year or such other year as the
18 commission may deem proper, to be determined on the basis of
19 data appearing in the annual report of such communications
20 public utility to the commission for the previous year, or such
21 other subsequent year as the commission may deem proper, plus or
22 minus such return as the commission may prescribe from time to
23 time upon such net changes of the physical property as are
24 reported to and approved for rate-making purposes by the
25 commission. In determining the net changes of the physical
26 property, the commission may, in its discretion, deduct from
27 gross additions to such physical property the amount charged to
28 operating expenses for depreciation or, in lieu thereof, it may
29 determine such net changes by deducting retirements from the
30 gross additions: Provided, That the commission, in determining

1 the basis for temporary rates, may make such adjustments in the
2 annual report data as may, in the judgment of the commission, be
3 necessary and proper.

4 (n) The commission may, in the manner hereinbefore set
5 forth, fix, determine, and prescribe temporary rates every
6 month, or at any other interval, if it be of opinion that the
7 public interest so requires, and the existence of proceedings
8 begun for the purpose of establishing final rates shall not
9 prevent the commission from changing every month, or at any
10 other interval, such temporary rates as it has previously fixed,
11 determined, and prescribed.

12 (o) Whenever the commission, upon examination of any annual
13 or other report, or of any papers, records, books, or documents,
14 or of the property of any communications public utility, shall
15 be of opinion that any rates of such communications public
16 utility are producing a return in excess of a fair return upon
17 the fair value of the property of such communications public
18 utility, used and useful in its public service, the commission
19 may, by order, prescribe for a trial period of at least six
20 months, which trial period may be extended for one additional
21 period of six months, such temporary rates to be observed by
22 such communications public utility as, in the opinion of the
23 commission, will produce a fair return upon such fair value, and
24 the rates so prescribed shall become effective upon the date
25 specified in the order of the commission. Such rates, so
26 prescribed, shall become permanent at the end of such trial
27 period, or extension thereof, unless at any time during such
28 trial period, or extension thereof, the communications public
29 utility involved shall complain to the commission that the rates
30 so prescribed are unjust or unreasonable. Upon such complaint,

1 the commission, after hearing, shall determine the issues
2 involved, and pending final determination the rates so
3 prescribed shall remain in effect.

4 (p) Temporary rates so fixed, determined, and prescribed
5 under this section shall be effective until the final
6 determination of the rate proceeding, unless terminated sooner
7 by the commission. In every proceeding in which temporary rates
8 are fixed, determined, and prescribed under this section, the
9 commission shall consider the effect of such rates in fixing,
10 determining, and prescribing rates to be thereafter demanded or
11 received by such communications public utility on final
12 determination of the rate proceeding. If, upon final disposition
13 of the issues involved in such proceeding, the rates as finally
14 determined, are in excess of the rates prescribed in such
15 temporary order, then such communications public utility shall
16 be permitted to amortize and recover, by means of a temporary
17 increase over and above the rates finally determined, such sum
18 as shall represent the difference between the gross income
19 obtained from the rates prescribed in such temporary order and
20 the gross income which would have been obtained under the rates
21 finally determined if applied during the period such temporary
22 order was in effect.

23 (q) The commission may, after reasonable notice and hearing,
24 ascertain and fix the fair value of the whole or any part of the
25 property of any communications public utility, in so far as the
26 same is material to the exercise of the jurisdiction of the
27 commission, and may make revaluations from time to time and
28 ascertain the fair value of all new construction, extensions,
29 and additions to the property of any communications public
30 utility. When any public utility furnishes or is affiliated with

1 the furnishing of cable television service, the commission shall
2 segregate the property used in furnishing each type of such
3 service, and shall not consider the property of such cable
4 television company as a unit in determining the value of the
5 property of such public utility for the purpose of fixing rates.

6 (r) In any proceeding upon the motion of the commission,
7 involving any proposed or existing rate of any communications
8 public utility, or in any proceeding upon complaint involving
9 any proposed increase in rates, the burden of proof to show that
10 the rate involved is just and reasonable shall be upon the
11 communications public utility. The commission shall give to the
12 hearing and decision of any such proceeding preference over all
13 other proceedings, and decide the same as speedily as possible.

14 (s) If, in any proceeding involving rates, the commission
15 shall determine that any rate received by a communications
16 public utility was unjust or unreasonable, or was in violation
17 of any regulation or order of the commission, or was in excess
18 of the applicable rate contained in an existing and effective
19 tariff of such communications public utility, the commission
20 shall have the power and authority to make an order requiring
21 the communications public utility to refund the amount of any
22 excess paid by any patron, in consequence of such unlawful
23 collection, within two years prior to the date of the filing of
24 the complaint, together with interest at the legal rate from the
25 date of each such excessive payment. In making a determination
26 under this section, the commission need not find that the rate
27 complained of was exorbitant or oppressive. Any order of the
28 commission awarding a refund shall be made for and on behalf of
29 all patrons subject to the same rate of the communications
30 public utility. The commission shall state in any refund order

1 the exact amount to be paid, the reasonable time within which
2 payment shall be made, and shall make findings upon pertinent
3 questions of fact. An appeal may be taken to the Commonwealth
4 Court from any refund order, but if no such appeal is taken, the
5 parties shall be bound by the findings and orders of the
6 commission.

7 (t) If the communications public utility fails to make
8 refunds within the time for payment fixed by any final order of
9 the commission, or any appellate court, as the case may be, any
10 patron entitled to any refund may sue therefor in Commonwealth
11 Court and the findings and order made by the commission shall be
12 prima facie evidence of the facts therein stated, and that the
13 amount awarded is justly due the plaintiff in such suit, and the
14 defendant communications public utility shall not be permitted
15 to avail itself of the defense that the service was, in fact,
16 rendered to the plaintiff at the rate contained in its tariffs
17 in force at the time payment was made and received, nor shall
18 the defendant communications public utility be permitted to
19 avail itself of the defense that the rate was reasonable:
20 Provided, That any patron entitled to any refund shall be
21 entitled to recover, in addition to the amount of refund, a
22 penalty of 50% of the amount of such refund, together with all
23 court costs and reasonable attorney fees. No suit may be
24 maintained for a refund unless instituted within one year from
25 the date of the order of the commission or its final affirmance
26 by an appellate court. Any number of patrons entitled to such
27 refund may join as plaintiffs and recover their several claims
28 in a single action, in which action the court shall render a
29 judgment severally for each plaintiff as his interest may
30 appear.

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

8 Section 203. Service and Facilities.--(a) Every
9 communications public utility shall furnish and maintain
10 adequate, efficient, safe, and reasonable service and
11 facilities, and shall make all such repairs, changes,
12 alterations, substitutions, extensions, and improvements in or
13 to such service and facilities as shall be necessary or proper
14 for the accommodation, convenience, and safety of its patrons,
15 employees, and the public. Such service also shall be reasonably
16 continuous and without unreasonable interruptions or delay. Such
17 service and facilities shall be in conformity with the
18 regulations and orders of the commission. Subject to the
19 provisions of this act and the regulations or orders of the
20 commission, every communications public utility may have
21 reasonable rules and regulations governing the conditions under
22 which it shall be required to render service. Any communications
23 public utility service being furnished or rendered by a
24 municipal corporation beyond its corporate limits shall be
25 subject to regulation and control by the commission as to
26 service and extensions, with the same force and in like manner
27 as if such service were rendered by a communications public
28 utility.

29 (b) No communications public utility shall, as to service,
30 make or grant any unreasonable preference or advantage to any

1 person, corporation, or municipal corporation, or subject any
2 person, corporation, or municipal corporation to any
3 unreasonable prejudice or disadvantage. No communications public
4 utility shall establish or maintain any unreasonable difference
5 as to service, either as between localities or as between
6 classes of service, but nothing herein contained shall be deemed
7 to prohibit the establishment of reasonable classifications of
8 service.

9 (c) The commission may, upon complaint or upon its own
10 motion, after reasonable notice and hearing, by order, require
11 any two or more public utilities engaged in a telephone or
12 telegraph business, whose lines or wires form a continuous line
13 of communication, or could be made to do so by the construction
14 and maintenance of suitable connections or the joint use of
15 facilities, or the transfer of messages at common points,
16 between different localities which cannot be communicated with,
17 or reached by, the lines of either public utility alone, where
18 such service is not already established or provided, to
19 establish and maintain through lines within the Commonwealth
20 between two or more such localities. The rate for such service
21 shall be just and reasonable and the commission shall have power
22 to establish the same, and declare the portion thereof to which
23 each company affected thereby is entitled and the manner in
24 which the same must be secured and paid. All facilities
25 necessary to establish such service shall be constructed and
26 maintained in such manner and under such rules, with such
27 division of expense and labor, as may be required by the
28 commission.

29 (d) The commission may, upon complaint or upon its own
30 motion, after reasonable notice and hearing, by order, require

1 any one or more public utilities, engaged in a telephone or
2 telegraph business, to connect their facilities, through the
3 medium of suitable trunk lines, with such manual or automatic
4 inter-communicating telephone or telegraph systems as may be
5 wholly owned or leased by such public utilities, or by any other
6 person or corporation. Rates for such trunk line connections and
7 service shall be in accordance with tariffs filed with and
8 approved by the commission.

9 (e) Whenever the commission after reasonable notice and
10 hearing, upon its own motion or upon complaint, finds that the
11 service or facilities of any communications public utility are
12 unreasonable, unsafe, inadequate, insufficient, or unreasonably
13 discriminatory, or otherwise in violation of this act, the
14 commission shall determine and prescribe, by regulation or
15 order, the reasonable, safe, adequate, sufficient service or
16 facilities to be observed, furnished, enforced, or employed,
17 including all such repairs, changes, alterations, extensions,
18 substitutions, or improvements in facilities as shall be
19 reasonably necessary and proper for the safety, accommodation,
20 and convenience of the public, and shall fix the same by its
21 order or regulation.

22 (f) Any communications public utility shall, when required
23 by the commission, file with the commission verified copies of
24 any and all contracts, writings, agreements, leases,
25 arrangements, or other engagements, in relation to its public
26 service, entered into by such communications public utility with
27 any person, corporation, State Government, or the Federal
28 Government, or any branch or subdivision thereof, or any other
29 communications public utility.

30 (g) Every communications public utility shall give immediate

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

11 (h) Whenever the commission deems that the public interest
12 so requires, it may direct, by regulation or order, that any
13 communications public utility shall award contracts or
14 agreements for the construction, improvement, or extension, of
15 its plant or system to the lowest responsible bidder, after a
16 public offering has been made, after advertisement and notice:
17 Provided, That any such communications public utility may
18 participate as a bidder in any such public offering. The
19 commission may prescribe regulations relative to such
20 advertisement, notice, and public letting.

21 (i) In any proceeding upon the motion of the commission,
22 involving the service or facilities of any communications public
23 utility, the burden of proof to show that the service and
24 facilities involved are adequate, efficient, safe, and
25 reasonable shall be upon the communications public utility.

26 Section 204. Accounting and Budgetary Matters.--(a) The
27 commission may, after reasonable notice and hearing, establish
28 systems of accounts (including cost finding procedures) to be
29 kept by communications public utilities, or may classify
30 communications public utilities and establish a system of

1 accounts for each class, and prescribe the manner and form in
2 which such accounts shall be kept. Every communications public
3 utility shall establish such systems of accounting, and shall
4 keep such accounts in the manner and form required by the
5 commission. The accounting system of any communications public
6 utility also subject to the jurisdiction of a Federal regulatory
7 body shall correspond, as far as practicable, to the system
8 prescribed by such Federal regulatory body: Provided, That the
9 commission may require any such communications public utility to
10 keep and maintain supplemental or additional accounts to those
11 required by any such regulatory body.

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

23 (c) Every communications public utility shall carry on its
24 books or records of account, proper and reasonable sums
25 representing the annual depreciation on its property used or
26 useful in the public service, which sums shall be based upon the
27 average estimated life of each of the several units or classes
28 of depreciable property. The commission, by appropriate order,
29 after hearing, may establish for each class of communications
30 public utilities, the units of depreciable property, the loss

1 upon the retirement of which shall be charged to the
2 depreciation reserve.

3 (d) Every communications public utility shall file with the
4 commission, at such times and in such form as the commission may
5 prescribe, statements setting forth the details supporting its
6 computation of annual depreciation, as recorded on the books or
7 records of accounts of the communications public utility. If the
8 commission, upon review of such statements, is of the opinion
9 that the amount of annual depreciation so recorded by any
10 communications public utility is not reasonable and proper, it
11 may, after hearing, require that provision be made for annual
12 depreciation in such sums as may be found by it to be reasonable
13 and proper. In making its findings, the commission shall give
14 consideration to the experience of the communications public
15 utility, and the predecessors of the communications public
16 utility in accumulating depreciation reserves, the retirements
17 actually made, and such other factors as may be deemed relevant.

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

24 (f) Every communications public utility shall keep such
25 books, accounts, papers, records, and memoranda, as shall be
26 required by the commission, in an office within this
27 Commonwealth, and shall not remove the same, or any of them,
28 from the Commonwealth, except upon such terms and conditions as
29 may be prescribed by the commission; but the provisions of this
30 section shall not apply to a communications public utility of

1 another state, engaged in interstate commerce, whose accounts
2 are kept at its principal place of business without the
3 Commonwealth, in the manner prescribed by any Federal regulatory
4 body: Provided, That such communications public utility, when
5 required by the commission, shall furnish to the commission,
6 within such reasonable time as it shall fix, certified copies of
7 its books, accounts, papers, records, and memoranda relating to
8 the business done by such communications public utility within
9 this Commonwealth.

10 (g) The burden of proof to justify every accounting entry
11 questioned by the commission shall be upon the communications
12 public utility making, authorizing, or requiring such entry, and
13 the commission may suspend any charge or credit pending
14 submission of such proof by such communications public utility.

15 (h) The commission may, by regulation, require any class of
16 communications public utilities, to file proposed budgets with
17 the commission on or before the first day of each budgetary
18 period, showing the amount of money which each communications
19 public utility within such class, will in its judgment, expend
20 during the budgetary period for payment of salaries of executive
21 officers, donations, advertising, lobbying expenses,
22 entertainment, political contributions, expenditures, and major
23 contracts for the sale or purchase of facilities, and all items
24 covering or contemplating any payment to any affiliated interest
25 for advice, auditing, associating, sponsoring, engineering,
26 managing, operating, financing, legal, or other services.
27 Adjustments or additions to any such budget may be made from
28 time to time by filing supplementary budgets with the
29 commission. When any such budget or supplemental budget has been
30 filed, the commission may examine into and investigate the same

1 to determine whether any or all of the contemplated expenditures
2 are unreasonable or contrary to the public interest and if after
3 reasonable notice and hearing, it shall so determine, it shall
4 make its findings and order in writing rejecting the same or any
5 part thereof.

6 (i) Upon such rejection, the communications public utility
7 concerned shall not make further expenditures or payments under
8 the budget or part thereof rejected, and no expenditures at any
9 time made under such rejected budget, or part thereof, shall be
10 allowed as an operating expense, or capital expenditure in any
11 rate or valuation proceeding, or in any other proceeding or
12 hearing before the commission, unless and until the propriety
13 thereof shall have been established to the satisfaction of the
14 commission, and any such finding or order shall remain in full
15 force and effect, unless and until such finding or order shall
16 be vacated, modified or set aside by the commission, or upon an
17 appeal, as provided in this act.

18 (j) The filing of any budget, its examination,
19 investigation, or determination by the commission, under this
20 section, shall not bar or estop the commission from determining,
21 in any rate valuation or other proceeding, whether any or all of
22 the expenditures made under any budget or supplemental budget
23 are reasonable or commensurate with the service or facilities
24 received.

25 (k) The commission shall at all times have access to, and
26 may designate any of its employees to inspect and examine, any
27 and all accounts, records, books, maps, inventories, appraisals,
28 valuations, or other reports, documents, and memoranda kept by
29 communications public utilities, or prepared or kept for them by
30 others; and the commission may require any communications public

1 utility to file with the commission, copies of any or all of
2 such accounts, records, books, maps, inventories, appraisals,
3 valuations, or other reports, documents, and memoranda.

4 (1) The provisions of this section shall apply to any
5 municipal corporation rendering or furnishing to the public any
6 communications public utility service.

7 Section 205. Securities and Obligations.--(a) Under such
8 regulations as the commission may prescribe, every
9 communications public utility, before it shall execute, cause to
10 be authenticated, deliver, or make any change or extension in
11 any term, condition, or date of, any stock certificate, or other
12 evidence of equitable interest in itself, or any bond, note,
13 trust certificate, or other evidence of indebtedness of itself,
14 any or all of which acts are hereinafter included in the term
15 "issuance of securities," shall have filed with the commission,
16 and shall have received from the commission, notice of
17 registration of a document to be known as a securities
18 certificate:

19 (1) Provided, That neither--

20 (i) the execution, authentication, or delivery of securities
21 to replace identical securities lost, mutilated, or destroyed
22 while in the ownership of a bona fide holder-for-value, who
23 properly indemnifies the communications public utility therefor,
24 nor

25 (ii) the execution, authentication, or delivery of
26 securities in exchange for the surrender of identical
27 securities, solely for the purpose of registering or
28 facilitating changes in the ownership thereof between bona fide
29 holders-for-value, which surrendered securities are thereupon
30 cancelled, nor

1 (iii) the delivery from the treasury of the communications
2 public utility of securities previously reacquired from bona
3 fide holders-for-value and held alive, shall be deemed an
4 issuance of securities under this subsection:

5 (2) And provided further, That the requirements of this
6 subsection shall not apply to the issuance of--

7 (i) any evidence of indebtedness, the date of maturity of
8 which is at a period of less than one year from the date of its
9 execution,

10 (ii) any evidence of indebtedness for which no date of
11 maturity is fixed, but which matures upon demand of the holder,

12 (iii) any evidence of indebtedness in the nature of a
13 contract between a communications public utility and a vendor of
14 equipment wherein the communications public utility promises to
15 pay installments upon the purchase price of equipment acquired,
16 and which is not in the form of an equipment trust certificate
17 or similar instrument readily marketable to the general public.

18 (b) Under such regulations as the commission may prescribe,
19 every communications public utility, before it shall assume
20 primary or contingent liability for the payment of any dividends
21 upon any stocks, or of any principal or interest of any
22 indebtedness, created or incurred by any other person or
23 corporation, any or all of which acts are hereinafter included
24 in the term "assumption of securities," shall have filed with
25 the commission, and shall have received from the commission,
26 notice of registration of a document to be known as a securities
27 certificate: Provided, however, That the requirements of this
28 subsection shall not apply to an assumption of securities if the
29 commission shall have approved the acquisition of all of the
30 property of the issuing company by the assuming company.

1 (c) Every securities certificate shall be verified by oath
2 or affirmation, and shall be in such form, and contain such
3 information pertinent to a proposed issuance or assumption of
4 securities, as the commission may require by its regulations. If
5 two or more issues of securities are proposed to be issued or
6 assumed by a communications public utility, a separate
7 securities certificate shall be submitted to the commission for
8 the issuance or assumption of each security issue. Whenever the
9 commission shall receive a securities certificate, which in its
10 opinion does not contain a detailed exposition of all facts
11 pertinent to the transaction involved, it may require the
12 communications public utility submitting such securities
13 certificate to submit further information, under oath or
14 affirmation, or it may conduct such investigation, hold such
15 hearings, and subpoena and examine such witnesses, books,
16 accounts, and records as it may deem proper. All information so
17 obtained shall become a part of the securities certificate.

18 (d) Upon the submission or completion of any securities
19 certificate, as hereinbefore provided, the commission shall
20 register the same if it shall find that the issuance or
21 assumption of securities in the amount, of the character, and
22 for the purpose therein proposed, is necessary or proper for the
23 present and probable future capital needs of the communications
24 public utility filing such securities certificate; otherwise it
25 shall reject the securities certificate. The commission may
26 consider the relation which the amount of each class of
27 securities issued by such communications public utility bears to
28 the amount of other such classes, the nature of the business of
29 such communications public utility, its credit and prospects,
30 and other relevant matters. If, at the end of 30 days after the

1 filing of a securities certificate, no order of rejection has
2 been entered, such certificate shall be deemed, in fact and law,
3 to have been registered: Provided, That the commission may, by
4 written order, giving reasons therefor, extend the 30-day
5 consideration period. Such registration or rejection may be as
6 to all or part of the securities to which such securities
7 certificate pertains, and any registration may be made subject
8 to such conditions as the commission may deem reasonable in the
9 premises. No registration, however, shall be construed to imply
10 any guaranty or obligation on the part of the Commonwealth of
11 Pennsylvania as to such securities, nor shall it be taken as
12 requiring the commission, in any proceeding brought before it
13 for any purpose, to fix a valuation which shall be equal to the
14 total of such securities and any other outstanding securities of
15 such communications public utility, or to approve or prescribe a
16 rate which shall be sufficient to yield a return on such
17 securities or the total securities of such communications public
18 utility. Written notice of the registration or rejection of any
19 securities certificate shall be served by registered mail upon
20 the communications public utility, which notice shall be under
21 the seal of the commission and signed by its secretary or other
22 designated officer: Provided, however, That every notice of
23 rejection shall contain a statement of the specific reasons for
24 rejection. Both registered and rejected securities certificates
25 shall be retained in the files of the commission.

26 (e) At any time within 30 days after the commission shall
27 have rejected a securities certificate, the communications
28 public utility submitting such securities certificate may submit
29 amendments thereto, verified by oath or affirmation, whereupon
30 the commission shall again consider and act upon the securities

1 certificate, as provided in subsection (d); but a securities
2 certificate which shall have been twice rejected by the
3 commission shall not be amended again. The registration by the
4 commission of a securities certificate, either as completed or
5 amended, shall bind the communications public utility submitting
6 such securities certificate to issue or assume the securities
7 only under the terms, and for the purpose recited in such
8 securities certificate and the issuance or assumption of the
9 securities under any other terms, or for any other purpose,
10 shall be unlawful.

11 (f) Appeals from the action of the commission upon any
12 securities certificates may be taken in the same manner as
13 hereinafter provided in this act for the taking of appeals from
14 orders of the commission. The completed securities certificate
15 shall constitute the record to be certified to the appellate
16 court in such appeal.

17 (g) In addition to any penalty provided elsewhere in this
18 act for any violation of this section, the commission, after due
19 consideration of the public interest, may declare void any
20 securities issued or any assumption of securities made in
21 violation of this section: Provided, however, That any such
22 declaration shall not be construed as a bar to the recovery, by
23 an innocent holder-for-value of such securities, of any losses
24 sustained by reason of the wrongful acts of the issuing or
25 assuming communications public utility.

26 Section 206. Contracts for Services.--(a) Within 30 days
27 after the effective date of this act, every communications
28 public utility having in force any contract with an affiliated
29 interest for the furnishing to such communications public
30 utility of any management, supervisory, purchasing,

1 construction, engineering, financing, or other services, shall
2 file a copy of such contract, or if oral, a complete statement
3 of the terms and conditions thereof, with the commission.

4 Every communications public utility which shall hereafter
5 enter into any such contract, or which shall change any such
6 existing contract, shall file a copy of such contract with the
7 commission within ten days after its execution or change.

8 The commission shall have authority at any time to
9 investigate every such contract filed in accordance with this
10 section, and, if after reasonable notice and hearing, it shall
11 determine that the amounts paid or payable thereunder are in
12 excess of the reasonable cost of furnishing the services
13 provided for in the contract, or that such services are not
14 reasonably necessary and proper, it shall order such amounts, in
15 so far as found excessive, to be stricken from the books of
16 account of the communications public utility as charges to fixed
17 capital, or operating expenses, as the case may be, and shall
18 not consider such amounts in any proceeding. In any proceeding
19 involving such amounts, the burden of proof to show that such
20 amounts are not in excess of the reasonable cost of furnishing
21 such services, and that such services are reasonable and proper,
22 shall be on the communications public utility.

23 (b) No communications public utility, shall, without the
24 prior approval of the commission, make effective or modify any
25 contract with an affiliated interest, or, by way of donation,
26 give to, or receive from, an affiliated interest, any property,
27 money, security, right or thing: Provided, however, That the
28 requirements of this section shall not apply to (i) a contract
29 for services as referred to in this section, or (ii) any single
30 or isolated transaction involving a cash consideration not

1 exceeding \$1,000, or (iii) any single or isolated transaction
2 involving the purchase or sale of fixed assets, materials or
3 supplies, used in rendering public service, in which the
4 monetary value of the consideration does not exceed 1% of the
5 undepreciated book value of the fixed assets of such
6 communications public utility, except that any such transaction,
7 involving more than \$50,000, or involving any transfer of
8 securities or loan of money, shall not be included in these
9 exemptions, and shall be subject to the requirements of this
10 section: And provided further, That, if the commission shall
11 have granted its approval to any communications public utility
12 to contract with an affiliated interest for the loan of sums of
13 money at intervals, or for any continuing or serial
14 transactions, the commission may, after hearing, and upon a
15 finding of public interest, withdraw its approval thereof, and
16 all portions of the contract made pursuant thereto, then
17 executory, shall be void, and all transactions thereunder, other
18 than payment by either party for value already received, shall
19 be unlawful.

20 Application for such approval shall be in writing, and shall
21 be in such form and contain such information as the commission
22 may prescribe by its regulations.

23 (c) The commission may, by regulation or order, require any
24 contract with an affiliated interest to be in writing. The
25 commission may also, by regulation or order, require that any
26 contract with an affiliated interest shall contain a provision
27 whereby the affiliated interest shall agree to furnish to the
28 communications public utility, at the time of billing such
29 public utility for any service, property, security, right, or
30 thing, under such contract, a detailed statement of the cost to

1 the affiliated interest of such service, property, security,
2 right, or thing.

3 (d) Within 90 days after the effective date of this act,
4 every communications public utility having a contract with an
5 affiliated interest, other than a contract for services, as
6 referred to in subsection (a), which was entered into before
7 such date, and was wholly or partially executory on such date,
8 shall file a copy of such contract, or, if oral, a complete
9 statement of the terms and conditions thereof, with the
10 commission.

11 (e) No approval granted to any communications public utility
12 by the commission, with respect to any contract with, or any
13 donation to, or from, an affiliated interest, and no exemption
14 granted by any regulation or order of the commission with
15 respect thereto, shall bind or require the commission, in fixing
16 the rates of such public utility, to take into consideration any
17 payment made, or any property, right, or thing received by such
18 public utility, under any contract entered into, extended, or
19 amended, or donation given or received, pursuant to such
20 approval or exemption. The commission shall not be bound, in
21 fixing the rates of any communications public utility, to take
22 into consideration any unreasonable payment made by such public
23 utility under any contract with an affiliated interest.

24 (f) Every contract with an affiliated interest, made
25 effective or modified in violation of any provision of this act,
26 or of any regulation or order of the commission made under this
27 act, shall be void; and any purchase, sale, payment, lease,
28 loan, or exchange of any service, property, money, security,
29 right, or thing under such contract, or under any contract with
30 an affiliated interest, the terms of which shall have been

1 breached by the affiliated interest, shall be unlawful.

2 Section 207. General Provisions and Powers of
3 Telecommunications Commission.--(a) The commission shall have
4 general administrative powers and authority to supervise and
5 regulate all communications public utilities doing business
6 within this Commonwealth. The commission may make such
7 regulations, not inconsistent with the law, as may be necessary
8 or proper in the exercise of its powers or for the performance
9 of its duties under this act.

10 (b) In addition to any powers hereinbefore expressly
11 enumerated in this act, the commission shall have full power and
12 authority, and it shall be its duty, to enforce, execute, and
13 carry out, by its regulations, orders, or otherwise, all and
14 singular the provisions of this act, and the full intent
15 thereof; and shall have the power to rescind or modify any such
16 regulations or orders. The express enumeration of the powers of
17 the commission in this act shall not exclude any power which the
18 commission would otherwise have under any of the provisions of
19 this act.

20 (c) Whenever the commission shall be of opinion that any
21 person or corporation, including a municipal corporation, is
22 violating, or is about to violate, any provisions of this act;
23 or has done, or is about to do, any act, matter, or thing herein
24 prohibited or declared to be unlawful; or has failed, omitted,
25 neglected, or refused, or is about to fail, omit, neglect, or
26 refuse, to perform any duty enjoined upon it by this act; or has
27 failed, omitted, neglected or refused, or is about to fail,
28 omit, neglect, or refuse to obey any lawful requirement,
29 regulation or order made by the commission; or any final
30 judgment, order, or decree made by any court, then and in every

1 such case the commission may institute in the Commonwealth
2 Court, injunction, mandamus, or other appropriate legal
3 proceedings, to restrain such violations of the provisions of
4 this act, or of the regulations, or orders of the commission,
5 and to enforce obedience thereto; and such court is hereby
6 clothed with exclusive jurisdiction throughout the Commonwealth
7 to hear and determine all such actions. No injunction bond shall
8 be required to be filed by the commission. Such persons,
9 corporations, or municipal corporations as the court may deem
10 necessary or proper to be joined as parties, in order to make
11 its judgment, order or writ effective, may be joined as parties.
12 The final judgment in any such action or proceeding shall either
13 dismiss the action or proceeding, or direct that the writ of
14 mandamus or injunction issue or be made permanent as prayed for
15 in the petition, or in such modified or other form as will
16 afford appropriate relief. An appeal may be taken as in other
17 civil actions.

18 Section 208. Enforcement Proceedings by Attorney General.--
19 The Attorney General, in addition to the exercise of the powers
20 and duties now conferred upon him by law, shall also, upon
21 request of the commission, or upon his own motion, proceed in
22 the name of the Commonwealth, by mandamus, injunction, or quo
23 warrant, or other appropriate remedy at law or in equity, to
24 restrain violations of the provisions of this act, or of the
25 regulations or orders of the commission, or the judgments,
26 orders, or decrees of any court, or to enforce obedience
27 thereto.

28 Section 209. Reports by Communications Public Utilities.--
29 The commission may require any communications public utility to
30 file periodical reports, at such times, and in such form, and of

1 such content, as the commission may prescribe, and special
2 reports concerning any matter whatsoever about which the
3 commission is authorized to inquire, or to keep itself informed,
4 or which it is required to enforce. The commission may require
5 any communications public utility to file with it a copy of any
6 report filed by such communications public utility with any
7 Federal department or regulatory body. All reports shall be
8 under oath or affirmation when required by the commission.

9 Section 210. Duty to Furnish Information to
10 Telecommunications Commission.--Every communications public
11 utility shall furnish to the commission, from time to time, and
12 as the commission may require, all maps, profiles, reports of
13 engineers, books, papers, records, and other documents or
14 memoranda, or copies of any and all of them, in aid of any
15 inspection, examination, inquiry, investigation, or hearing, or
16 in aid of any determination of the value of its property, or any
17 portion thereof, and shall cooperate with the commission in the
18 work of the valuation of its property, or any portion thereof,
19 and shall furnish any and all other information to the
20 commission, as the commission may require, in any inspection,
21 examination, inquiry, investigation, hearing, or determination
22 of such value of its property, or any portion thereof.

23 Section 211. Adherence to Regulations and Orders of
24 Telecommunications Commission and Courts.--Every communications
25 public utility, its officers, agents, and employees, and every
26 other person or corporation subject to the provisions of this
27 act, affected by or subject to any regulations or orders of the
28 commission, or of any court, made, issued, or entered under the
29 provisions of this act, shall observe, obey, and comply with
30 such regulations or orders, and the terms and conditions

1 thereof, so long as the same shall remain in force.

2 Section 212. Inspection of, and Access to, Facilities and
3 Records of Communications Public Utilities.--The commission
4 shall have full power and authority, either by or through its
5 members, or duly authorized representatives, whenever it shall
6 deem it necessary or proper in carrying out any of the
7 provisions of this act, or its duties under this act, to enter
8 upon the premises, buildings, machinery, system, plant, and
9 equipment, and make an inspection, valuation, physical
10 examination, inquiry, or investigation of any and all plant and
11 equipment, facilities, property, and pertinent records, books,
12 papers, memoranda, documents, or effects whatsoever, of any
13 public utility, and to hold any hearing for such purposes. In
14 the performance of such duties, the commission may have access
15 to, and use any books, records, or documents in the possession
16 of, any department, board, or commission of the Commonwealth, or
17 any political subdivision thereof.

18 Section 213. Documents, Regulations, and Orders.--Copies of
19 all official documents, regulations, and orders filed or
20 deposited in the office of the commission, certified by the
21 secretary under the official seal of the commission, to be true
22 copies of the originals, shall be evidence in like manner as the
23 originals, in all matters before the commission and in the
24 courts of this Commonwealth, providing the commission complies
25 with the act of July 31, 1968 (P.L.769, No.240), known as the
26 "Commonwealth Documents Law."

27 Section 214. Designation of Statutory Agent.--Every
28 communications public utility shall file with the commission a
29 designation in writing of the name and post office address of a
30 person within the Commonwealth upon whom service of any notice,

1 order, or process may be made under this act. Such designation
2 may, from time to time, be changed by like writing similarly
3 filed.

4 Section 215. Contracts Between Communications Public
5 Utilities and Municipalities.--No contract or agreement between
6 any communications public utility and any municipal corporation
7 shall be valid unless filed with the commission at least 30 days
8 prior to its effective date: Provided, That upon notice to the
9 municipal authorities, and the communications public utility
10 concerned, the commission may, prior to the effective date of
11 such contract or agreement, institute proceedings to determine
12 the reasonableness, legality, or any other matter affecting the
13 validity thereof. Upon the institution of such proceedings, such
14 contract or agreement shall not be effective until the
15 commission grants its approval thereof: Provided, further, That
16 nothing in this section shall be construed to apply to contracts
17 or agreements between any communications public utility and any
18 municipal corporation which provide only for the furnishing of
19 service at the regularly filed and published tariff rates.

20 Section 216. Joint Hearings and Investigations;
21 Reciprocity.--(a) The commission shall have full power and
22 authority to make joint investigations, hold joint hearings
23 within or without the Commonwealth, and issue joint or
24 concurrent orders in conjunction or concurrence with any
25 official, board, commission, or agency of any state or of the
26 United States, whether in the holding of such investigations or
27 hearings, or in the making of such orders, the commission shall
28 function under agreements or compacts between states or under
29 the concurrent power of states to regulate the interstate
30 commerce, or as an agency of the Federal Government, or

1 otherwise.

2 (b) The commission shall have full power and authority to
3 arrange reciprocity of treatment of communications public
4 utilities of this Commonwealth by regulatory bodies, under
5 regulatory laws of other states, and to that end the commission
6 is hereby vested with power to impose upon communications public
7 utilities of other states the same penalties, restrictions, and
8 regulations as are imposed upon communications public utilities
9 of this Commonwealth by the regulatory body of such other states
10 upon communications public utilities of this Commonwealth, when
11 operating into, out of, or through such other states.

12 Section 217. Investigation of Interstate Rates, Facilities,
13 and Service.--The commission may investigate the interstate
14 rates, or service of any communications public utility within
15 this Commonwealth, and when such rates, facilities or service
16 are, in the determination of the commission, unjust,
17 unreasonable, discriminatory or in violation of any Federal law,
18 or in conflict with the rulings, orders or regulations of any
19 Federal regulatory body, the commission may apply, by petition
20 to the proper Federal regulatory body, for relief, or may
21 present to the proper Federal regulatory body all facts coming
22 to its knowledge as to the violation of the rules, orders, or
23 regulations of such regulatory body, or as to the violation of
24 the particular Federal law.

25 Section 218. Existing Liabilities and Rights.--Except as
26 otherwise expressly provided, none of the powers or duties
27 conferred or imposed by this act upon the commission, and none
28 of the regulations, orders, certificates, permits, or licenses
29 made, registered, or issued by the commission, and none of the
30 duties, powers, or limitations of the powers conferred or

1 imposed by this act upon communications public utilities, or the
2 performance or exercise thereof, shall be construed in anyway to
3 abridge or impair any of the obligations, duties, or liabilities
4 of any communications public utility, in equity or under the
5 existing common or statutory law of the Commonwealth; but all
6 such obligations, duties, and liabilities shall be and remain as
7 heretofore. And except as otherwise provided, nothing in this
8 act contained shall in any way abridge or alter the existing
9 rights of action or remedies in equity or under the common or
10 statutory law of the Commonwealth, it being the intention that
11 the provisions of this act shall be cumulative and in addition
12 to such rights of action and remedies.

13 Section 219. Effect of Certificates, Licenses, and
14 Permits.--The issuing or registration by the commission of any
15 certificate, license, or permit whatsoever, under the provisions
16 of this act, or any finding, determination, or order made by the
17 commission refusing or granting such certificates, licenses, or
18 permits, shall not be construed to revive or validate any
19 lapsed, terminated, invalidated, or void powers, franchises,
20 rights, or privileges; or to enlarge or add to the rights,
21 powers, franchises, or privileges contained in any charter, or
22 in the grant of any franchise, or any supplement or amendment to
23 any charter, or to give or remit any forfeiture. The
24 registration of any securities certificates shall not be deemed
25 to require the commission, in subsequently determining the rates
26 to be charged for the service of any communications public
27 utility, to provide a rate which shall be sufficient to yield a
28 return on such securities.

29 Section 220. Contracts; Power of the Telecommunications
30 Commission to Vary, Reform or Revise.--The commission shall have

1 power and authority to vary, reform, or revise, upon a fair,
2 reasonable, and equitable basis, any obligations, terms, or
3 conditions of any contract heretofore or hereafter entered into
4 between any communications public utility and any person,
5 corporation, or municipal corporation, which embrace or concern
6 a public right, benefit, privilege, duty, or franchise, or the
7 grant thereof, or are otherwise affected or concerned with the
8 public interest and the general well being of the Commonwealth.

9 Whenever the commission shall determine, after reasonable
10 notice and hearing, upon its own motion or upon complaint, that
11 any such obligations, terms, or conditions are unjust,
12 unreasonable, inequitable, or otherwise contrary or adverse to
13 the public interest and the general well being of the
14 Commonwealth, the commission shall determine and prescribe, by
15 findings and order, the just, reasonable, and equitable
16 obligations, terms, and conditions of such contract. Such
17 contract, as modified by the order of the commission, shall
18 become effective 30 days after service of such order upon the
19 parties to such contract.

20 Section 221. Burden of Proof in Proceedings Involving a
21 Determination or Order of the Telecommunications Commission.--In
22 any case involving any alleged violation by a communications
23 public utility, of any lawful determination or order of the
24 commission, the burden of proof shall be upon the communications
25 public utility, complained against, to show that the
26 determination or order of the commission has been complied with.

27 ARTICLE III

28 CABLE COMMUNICATIONS COMPANIES

29 Section 301. Certificate of Confirmation.--(a) Except as
30 provided in subsection (f), after March 31, 1977, no person

1 shall exercise a franchise, and no such franchise shall be
2 effective, until the commission has confirmed such franchise. A
3 person wishing to exercise a franchise shall file with the
4 commission an application for a certificate of confirmation in
5 such form and containing such information and supportive
6 documentation as the commission may require. The application
7 shall be accompanied by proof of service thereof upon the
8 franchisor and by such fee as the commission may set.

9 (b) The commission may hold a public hearing on any
10 application for a certificate of confirmation if it determines
11 that such a hearing is in the public interest. The commission
12 shall fix the time and place for such a hearing and cause notice
13 thereof to be given to the applicant, the chief executive
14 officer of the municipality issuing the franchise and such other
15 persons as the commission may deem appropriate. Testimony may be
16 taken and evidence received at such a hearing pursuant to such
17 rules and procedures as the commission may establish.

18 (c) The commission shall issue a certificate of confirmation
19 of the franchise unless it finds that:

20 (1) the applicant,

21 (2) the proposed cable communications system, or

22 (3) the proposed franchise does not conform to the standards
23 embodied in the regulations promulgated by the commission
24 pursuant to section 302, or that operation of the proposed cable
25 communications system by the applicant under the proposed
26 franchise would be in violation of law, any regulation or
27 standard promulgated by the commission or the public interest.

28 (d) The commission may issue a certificate of confirmation
29 contingent upon compliance with standards, terms or conditions
30 set by the commission which it determines would not have been

1 met by the applicant, system or franchise as proposed.

2 (e) In the event the commission refuses to issue a
3 certificate of confirmation, it shall set forth in writing the
4 reasons for its decision.

5 (f) Any cable communications company which, pursuant to an
6 existing franchise:

7 (1) was lawfully engaged in actual operations, or

8 (2) had commenced substantial construction (as such term is
9 defined by the commission) of a cable communications system on
10 January 1, 1975, may continue to exercise said franchise
11 pursuant to the terms thereof, provided such company files with
12 the commission within six months after the effective date of
13 this act an application in such form and containing such
14 information and supporting documentation as the commission may
15 require. The commission shall issue a certificate of
16 confirmation to such cable communications company valid for five
17 years without further proceedings, provided the company has
18 received a certificate of compliance from the Federal
19 Communications Commission, which certificate may be renewed by
20 the commission on application for five year terms pursuant to
21 the provisions of section 302.

22 (g) Notwithstanding any other provision of this article, any
23 franchise which has been granted but not exercised as indicated
24 by substantial performance within one year of the effective date
25 of this act, shall be deemed contrary to the public interest and
26 intent of such franchise and any certificate of confirmation
27 previously issued by the commission shall be invalidated, unless
28 the cable communications company can make an adequate showing
29 that substantial performance was precluded by circumstances
30 beyond the reasonable control of such company. Any subsequent

1 application for a certificate of confirmation shall be
2 determined in accordance with the provisions of this section.

3 (h) The commission shall issue a certificate of confirmation
4 valid for a five year period, to any cable communications
5 company engaged in actual and lawful nonfranchised cable
6 communications operations on January 1, 1975, if application for
7 such a certificate is made to the commission on or before six
8 months after the effective date of the act. Notwithstanding any
9 other provisions of this article, any such company which files
10 such an application may continue to operate within the limits of
11 the area in which it was actually rendering service on January
12 1, 1975, or a later date, as determined by the commission. Such
13 a certificate of confirmation may be renewed by the commission
14 on application for five year terms pursuant to the provisions of
15 section 302.

16 (i) Nothing in this section shall be deemed to validate a
17 franchise not granted in accordance with law or affect any
18 claims in litigation on the effective date of this article. No
19 confirmation under this section shall preclude invalidation of
20 any franchise illegally obtained.

21 Section 302. Franchise Standards.--The commission shall to
22 the extent permitted by, and not contrary to applicable Federal
23 law, rules and regulations:

24 (1) Prescribe standards for procedures and practices which
25 municipalities shall follow in granting franchises, which
26 standards shall provide for:

27 (i) the issuance of a public invitation to compete for the
28 franchise;

29 (ii) the filing of all franchise applications and related
30 documents as public records, with reasonable notice to the

1 public that such records are open to inspection and examination
2 during reasonable business hours;

3 (iii) the holding of a public hearing, upon reasonable
4 notice to the public and the commission at which the applicants
5 and their proposals shall be examined and members of the public
6 and interested parties are afforded a reasonable opportunity to
7 express their views thereon;

8 (iv) the rendition of a written report by the municipality,
9 made available to the public, setting forth the reasons for its
10 decision in awarding the franchise; and

11 (v) such other procedural standards as the commission may
12 deem necessary or appropriate to assure maximum public
13 participation and fair competition and to protect the public
14 interest.

15 (2) Prescribe minimum standards for inclusion in franchises,
16 including maximum initial and renewal terms; minimum channel
17 capacity; provisions regarding access to, and facilities to make
18 use of, channels for education and public service programs; a
19 requirement that no such franchise may be exclusive; and such
20 other standards for inclusion in franchises as the commission
21 shall deem necessary or appropriate to protect the public
22 interest.

23 (3) Prescribe standards by which the franchising authority
24 shall determine whether an application possesses:

25 (i) the technical ability;

26 (ii) the financial ability;

27 (iii) the good character; and

28 (iv) other qualifications necessary to operate a cable
29 communications system in the public interest.

30 (4) Prescribe standards for the construction and operation

1 of cable communications systems, which standards shall be
2 designed to promote:

- 3 (i) safe, adequate and reliable service to subscribers;
- 4 (ii) the construction and operation of systems consistent
5 with the most advanced state of the art;
- 6 (iii) a construction schedule providing for maximum
7 penetration as rapidly as possible within the limitations of
8 economic feasibility;
- 9 (iv) the construction of systems with the maximum
10 practicable channel capacity, facilities for local program
11 origination, facilities to provide service in areas conforming
12 to various community interest, facilities with the technical
13 capacity for interconnection with other systems within regions
14 as established in the commission's Statewide telecommunications
15 plan and facilities capable of transmitting signals from
16 subscribers to the cable communications company or to other
17 points; and
- 18 (v) the prompt handling of inquiries, complaints and
19 requests for repairs.

20 Section 303. Franchise Requirements.--(a) Notwithstanding
21 any other law, no cable communications system, whether or not it
22 is deemed to occupy or use a public highway, may commence
23 operations or expand the area it serves after the effective date
24 of this act unless it has been franchised by each municipality
25 in which it proposes to provide or extend service.

26 (b) A municipality shall have the power to require a
27 franchise of any cable communications system providing service
28 within the municipality, notwithstanding that said cable
29 communications system does not occupy, use or in any way
30 traverse a public highway. The provision of any municipal

1 charter or other law authorizing a municipality to require and
2 grant franchises is hereby enlarged and expanded, to the extent
3 necessary, to authorize such franchises.

4 (c) Nothing in this article shall be construed to prevent
5 franchise requirements in excess of those prescribed by the
6 commission, unless such requirement is inconsistent with this
7 article or any regulation, policy or procedure of the
8 commission.

9 Section 304. Construction of Systems.--Every cable
10 communications system constructed after the effective date of
11 this act shall comply with such construction standards as the
12 commission may prescribe pursuant to section 302.

13 Section 305. Transfer, Renewal or Amendment of Franchises
14 and Transfer of Control over Franchises and System Properties.--

15 (a) No transfer, renewal or amendment of any franchise, or any
16 transfer of control of a franchise or certificate of
17 confirmation or of facilities constituting a significant part of
18 any cable communications system shall be effective without the
19 prior approval of the commission. Such approval shall be
20 required in addition to any municipal approval required by the
21 franchise or by law. For the purposes of this section, a merger
22 or consolidation of two or more cable communications companies
23 shall be deemed to be a transfer of the franchises or
24 certificates granted to such companies.

25 (b) A person wishing to transfer, renew or amend a
26 franchise, or to transfer control of a franchise or of a
27 substantial part of the facilities thereof shall file with the
28 commission an application for approval of such change, in such
29 form and containing such information and supporting documents as
30 the commission may require. The application shall be accompanied

1 by proof of service thereof upon the franchise or, if any, and
2 by such fee as the commission may set. The commission may hold a
3 public hearing on any such application as set forth in section
4 301.

5 (c) The commission shall approve the application unless it
6 finds that the applicant, or in the case of a transfer
7 application, the proposed transferee or the cable communications
8 system does not conform to the standards embodied in the
9 regulations promulgated by the commission pursuant to section
10 302.

11 (d) The commission may approve the application contingent
12 upon compliance with standards, terms or conditions set by the
13 commission which it determines would not have been met by the
14 proposed transfer, renewal or amendment.

15 (e) In the event the commission refuses to approve the
16 application, it shall set forth in writing the reasons for its
17 decision.

18 (f) Approval of a transfer, renewal or amendment under this
19 section shall not preclude invalidation of a franchise illegally
20 obtained.

21 Section 306. Interconnection and System Coordination.--
22 Whenever the commission finds it to be in the public interest,
23 the commission may, either upon application of an interested
24 party or on its own initiative, and after public notice and
25 opportunity for hearing, order the interconnection of cable
26 communications systems and facilities or the coordinated
27 operation of such systems and facilities. The commission may
28 append to such order such reasonable terms and conditions as
29 will best promote the public interest.

30 Section 307. Requirements for Adequate Service.--(a) Every

1 cable communications company shall provide safe, adequate and
2 reliable service in accordance with applicable laws, regulations
3 and franchise requirements.

4 (b) Whenever, upon complaint or upon its own motion, and
5 after public notice and opportunity for hearing, the commission
6 finds that, despite its economic feasibility, the construction
7 or operation of a franchised or certificated cable
8 communications system has been unreasonably delayed or that the
9 extension of service to any persons or area within a cable
10 communications company's territory has been unreasonably
11 withheld, it may order such construction, operation or extension
12 on such terms and conditions as it deems reasonable and in the
13 public interest.

14 (c) Whenever, upon complaint or upon its own motion, and
15 after public notice and opportunity for hearing, the commission
16 finds that a cable communications company is not meeting the
17 service requirements and obligations imposed by this article, by
18 the regulations promulgated hereunder, or by its franchise, it
19 may order compliance therewith on such terms and conditions as
20 it deems reasonable and in the public interest.

21 (d) Failure to comply with an order of the commission issued
22 under subsections (b) and (c) shall be grounds for denial,
23 suspension or revocation of the right to exercise a franchise or
24 to operate pursuant to a certificate of confirmation.

25 Section 308. Rates.--(a) Except as otherwise provided in
26 this section, the rates charged by a cable communications
27 company shall be those specified in the franchise which may
28 establish, or provide for the establishment of reasonable
29 classifications of service and categories of subscribers, or
30 change different rates for differing services or for subscribers

1 in different categories.

2 (b) Such rates may not be changed except by amendment of the
3 franchise.

4 (c) Notwithstanding subsection (a):

5 (i) no rate provision in any franchise shall bind a
6 municipality for more than ten years and no rate provision in
7 any renewed franchise shall bind a municipality for more than
8 five years. In the event that an existing franchise purports to
9 bind a municipality with respect to rates for a period to expire
10 ten years after the effective date of this act, such provisions
11 shall have no further force or effect ten years after the
12 effective date of this act; and

13 (ii) any rate or rates found by the commission, after public
14 notice and opportunity for hearing, to be discriminatory or
15 preferential as between subscribers similarly situated shall
16 thereafter be void. Reduced rates or free service to
17 governmental, educational or charitable institutions shall not
18 be considered unduly discriminatory or preferential, but may not
19 be a requirement in any franchise granted after the effective
20 date of this act.

21 (d) In the event the commission finds that any rate is
22 discriminatory or preferential pursuant to subparagraph (ii) of
23 subsection (c) or that any cable communications company is in
24 violation of an order issued by the commission pursuant to
25 section 307 requiring adequate service, it may issue an order
26 requiring the municipality to provide for new rates which are
27 non-discriminatory and non-preferential or reduced to reflect
28 the inadequate service, as the case may be.

29 (e) In addition to other powers, the commission may, after
30 public notice and opportunity for hearing, prescribe rates for

1 cable communication service whenever:

2 (1) existing rates have been found discriminatory or
3 preferential and, after reasonable opportunity, the municipality
4 has not provided for new rates which are non-discriminatory or
5 non-preferential, as provided in subsection (d);

6 (2) a cable communications company is in violation of an
7 order issued by the commission pursuant to section 307 requiring
8 adequate service and, after reasonable opportunity, the
9 municipality has not provided for new rates reduced to reflect
10 the inadequate service, in which case the commission may require
11 appropriate rate reductions;

12 (3) having reduced rates pursuant to paragraph (2), the
13 commission finds that the cable communications company has
14 substantially remedied the deficiencies, in which case the
15 commission shall return the rates to those rates stipulated in
16 the franchise;

17 (4) upon complaint by any interested party and after
18 reasonable opportunity for negotiation between the municipality
19 and the franchise, it finds that rates are not established by or
20 pursuant to the terms of the franchise, in which event, the
21 commission shall fix rates at a level comparable to rates fixed
22 in comparable franchises requiring comparable service for
23 comparable service areas.

24 Section 309. Abandonment of Service.--(a) No cable
25 communications company, notwithstanding any provision in a
26 franchise, may abandon any service or portion thereof without
27 having given six months' prior written notice to the commission
28 and to the franchisor, if any, and to the municipalities it
29 services.

30 (b) When abandonment of any service is prohibited by a

1 franchise, no cable communications company may abandon such
2 service without written consent of the franchisor, if any, and
3 the commission. In granting such consent, the commission may
4 impose such terms, conditions or requirements as in its judgment
5 are necessary to protect the public interest.

6 Section 310. Termination of Franchises.--(a) A franchise
7 shall terminate at the expiration of its term or otherwise in
8 accordance with the provisions thereof, unless, prior thereto,
9 the commission otherwise orders. The commission may so order
10 only if it finds, after public notice and opportunity for a
11 hearing, that the franchise:

12 (1) has committed a material breach of its franchise or any
13 applicable provisions of this article or of the regulations
14 promulgated hereunder and has failed, without reasonable
15 justification, to cure said breach within 60 days after having
16 received written notice thereof from the commission; or

17 (2) has been adjudicated a bankrupt or has filed a voluntary
18 petition for bankruptcy or reorganization or for an order
19 protecting its assets from the claims of creditors and the
20 commission finds that termination of the franchise or
21 certificate of confirmation under such conditions is in the best
22 interests of the public.

23 (b) Upon termination of a franchise or certificate of
24 confirmation, the cable communications company shall dispose of
25 its facilities in accordance with the provisions of the
26 franchise or certificate. However, on motion of any interested
27 party or upon its own motion, and after public notice and
28 opportunity for hearing, if the commission finds that the
29 continued presence of the facilities in any public thoroughfare
30 would pose a nuisance to the municipality or its residents, the

1 cable communications company shall remove its facilities within
2 such period as the commission shall order. In the absence of any
3 applicable franchise or certificate provision or order by the
4 commission to the contrary, the cable communications company may
5 abandon its facilities.

6 Section 311. Landlord-tenant Relationship.--No landlord
7 shall:

8 (1) Interfere with the installation of cable communications
9 facilities upon his property or premises, except that a landlord
10 may require:

11 (i) that the installation of cable communications facilities
12 conform to such reasonable conditions as are necessary to
13 protect the safety, functioning and appearance of the premises,
14 and the convenience and well-being of other tenants;

15 (ii) that the cable communications company or the tenant or
16 a combination thereof bear the entire cost of the installation,
17 operation or removal of such facilities; and

18 (iii) that the cable communications company and the tenant
19 agree to indemnify the landlord for any damage caused by the
20 installation, operation or removal of such facilities.

21 (2) Demand or accept payment, in any form, in exchange for
22 permitting cable communications service on or within his
23 property or premises.

24 (3) Discriminate in rental charges, or otherwise, between
25 tenants who receive cable communications service and those who
26 do not.

27 (4) Rental agreements and leases executed prior to the
28 effective date of this article may be enforced notwithstanding
29 this section.

30 (5) No cable communications company may enter into any

1 agreement with the owners, lessees or persons controlling or
2 managing buildings served by cable communications, or do or
3 permit any act, that would have the effect, directly or
4 indirectly of diminishing or interfering with existing rights of
5 any tenant or other occupant of such building to use or avail
6 himself of master or individual antenna equipment.

7 Section 312. Censorship Prohibited.--(a) The commission may
8 not prohibit or limit any program or any class or type of
9 program or otherwise censor the communications or signals
10 transmitted by any cable communications company or over any
11 cable communications system, and may not promulgate any
12 regulation or condition which would interfere with the right of
13 free speech by means of cable communications.

14 (b) No municipality may prohibit or limit any program or
15 class or type of program or impose discriminatory or
16 preferential franchise fees in any manner that would tend to
17 encourage or discourage programming of any particular nature,
18 directly or indirectly.

19 (c) No cable communications company may prohibit or limit
20 any program or class or type of program presented over a leased
21 channel or any channel made available for public access or
22 educational purposes.

23 Section 313. Liability for Obscenity, Defamation and
24 Invasion of Privacy.--Neither the cable communications company
25 whose facilities are used to transmit a program produced by a
26 person other than such cable communications company pursuant to
27 the provisions of this article or of Federal law or of
28 applicable regulations, nor the officers, directors or employees
29 of any such cable communications company shall be liable for
30 damages arising from any obscene or defamatory statements or

1 actions or invasion of privacy occurring during any program when
2 such company does not originate or produce such program.

3 Section 314. General Powers of the Telecommunications
4 Commission Relating to Cable Communications Companies.--(a) The
5 commission may promulgate, issue, amend and rescind such orders,
6 rules and regulations as it may find necessary or appropriate to
7 carry out the purposes of this article. Such orders, rules and
8 regulations may classify persons and matters within the
9 jurisdiction of the commission and prescribe different
10 requirements for different classes of persons or matters. A copy
11 of any order, rule or regulation promulgated hereunder shall be
12 subject to public inspection during reasonable business hours.

13 (b) The commission may require cable communications
14 companies to maintain and file such reports, contracts and
15 statements, including but not limited to ownership, accounting,
16 auditing and operating statements, engineering reports and other
17 data as the commission may deem necessary or appropriate to
18 administer the provisions of this article. The commission,
19 including members of its staff, may make reasonable inspections
20 of the records and facilities of any cable communications
21 company.

22 (c) The commission may examine, under oath all officers,
23 agents, employees and stockholders of any cable communications
24 company, municipal officials and any other persons and compel
25 the production of papers and the attendance of witnesses to
26 obtain the information necessary to administer the provisions of
27 this article.

28 (d) The commission may require and receive from any agency
29 of the State or any political subdivision thereof such
30 assistance and data as may be necessary to enable the commission

1 to administer the provisions of this article. The commission may
2 enter into such cooperative arrangements with the Public Utility
3 Commission, the Department of Education, other State agencies
4 and municipalities, each of which is hereby authorized to enter
5 into such cooperative arrangements, as shall be necessary or
6 appropriate to assure that there will be maximum utilization of
7 existing expertise in communications technology, cable
8 communication operations and programming and that the purposes
9 of this article will be effectively accomplished. Upon request
10 of the commission, any State agency may transfer to the
11 commission such officers and employees as the commission may
12 deem necessary from time to time to assist the commission in
13 carrying out its functions and duties. Officers and employees so
14 transferred shall not lose their civil service status or rights.

15 (e) The commission shall have and may exercise all other
16 powers necessary or appropriate to carry out the purposes of
17 this article.

18 ARTICLE IV

19 PROCEDURAL AND ADMINISTRATIVE PROVISIONS - GENERAL

20 Section 401. Procedure Before the Telecommunications
21 Commission.--(a) Any person, municipality or corporation
22 complaining of anything done or omitted to be done by any
23 communications public utility or cable company subject to this
24 act, in contravention of the provisions thereof, may apply to
25 said commission by petition which shall briefly state the facts,
26 whereupon a statement of the complaint thus made shall be
27 forwarded by the commission to such communications public
28 utility or cable company, who shall be called upon to satisfy
29 the complaint or to answer the same in writing within a
30 reasonable time to be specified by the commission. If such

1 communications public utility or cable company within the time
2 specified shall make reparation for the injury alleged to have
3 been caused, the communications public utility or cable company
4 shall be relieved of liability to the complainant only for the
5 particular violation of law thus complained of. If such
6 communications public utility or utilities or cable company
7 shall not satisfy the complaint within the time specified or
8 there shall appear to be any reasonable ground for investigating
9 said complaint, it shall be the duty of the commission to
10 investigate the matters complained of in such manner and by such
11 means as it shall deem proper. No complaint shall at any time be
12 dismissed because of the absence of direct damage to the
13 complainant.

14 (b) The commission shall adopt rules and regulations
15 regarding the procedure to be followed before the commission.
16 The proceeding before the commission shall follow the
17 Pennsylvania Rules of Civil Procedure as adopted by the Supreme
18 Court to the extent that the commission is able to so do.

19 Section 402. Review and Appeals.--(a) Within 30 days after
20 the service of any order by the commission, unless an
21 application for a rehearing may be pending, and then within 30
22 days after the service of the order refusing such application,
23 or the service of an order modifying, amending, rescinding, or
24 affirming the original order, any party to the proceedings
25 affected thereby may appeal therefrom to the Commonwealth Court.
26 Such court is hereby clothed with exclusive jurisdiction
27 throughout the Commonwealth for the purpose of hearing and
28 determining any and all such appeals: Provided, That in case of
29 an appeal from an award by the commission of compensation for
30 damages resulting from an appropriation of real property under

1 the provisions of this act, the appeal shall, in case any party
2 is entitled to demand a jury trial under the Constitution of
3 this Commonwealth, be to the courts of the property county
4 thereof, but in all other cases shall be to the Commonwealth
5 Court. In case of any such appeal from such an award where the
6 commission shall have apportioned the amount among, or shall
7 have directed the payment by, any communications public utility,
8 municipal corporation or the Commonwealth, any such
9 communications public utility, municipal corporation, or the
10 Commonwealth may intervene and be heard in the trial of such
11 appeal under such rules and regulations as the court shall
12 prescribe. If an appeal be taken to any court other than the
13 Commonwealth Court, the case shall proceed in accordance with
14 the practice and procedure made and provided in such cases.

15 (b) All appeals to the Commonwealth Court shall be by
16 petition, setting forth specifically and concisely the error or
17 errors assigned to the order of the commission, which petition
18 shall be accompanied by a copy of the order appealed from, and
19 shall also be accompanied by affidavit of the appellant, or of
20 the agent or attorney of such appellant, that the appeal is not
21 taken for the purpose of delay, but because the appellant verily
22 believes that injustice has been done. Each error relied on must
23 be specified particularly and set forth in a separate numbered
24 paragraph of the petition.

25 (c) The commission shall be immediately notified in writing
26 by the appellant of the taking of an appeal, and within a
27 reasonable time after service of such notice, shall certify,
28 under its official seal, to the proper court as hereinbefore
29 provided, the record of such proceedings, which record shall
30 include the evidence taken therein, a copy of all orders made by

1 the commission in such proceedings, and a copy of the opinion,
2 if any, filed by the commission before or after notice of
3 appeal. The cost of preparing and certifying such record shall
4 be paid to the commission by the appellant and taxed as part of
5 the costs in the case to be paid as directed by the court upon
6 the final determination of the appeal.

7 (d) No appeal from any order of the commission, except as
8 hereinafter provided, shall, in any case, operate as a
9 supersedeas of the order appealed from unless the Commonwealth
10 Court shall, by an interlocutory order, make such appeal a
11 supersedeas. Such interlocutory order shall be made only after
12 such notice to the commission and other parties of record as the
13 court may direct, and after hearing. Upon the granting of a
14 supersedeas in any case, the court may, in its discretion,
15 require the filing of a bond to the Commonwealth for the use of
16 all parties aggrieved, in such sum and conditioned as the court
17 may, by its order, direct, or may grant the supersedeas upon
18 such other terms and conditions as the court, in its discretion,
19 may prescribe: Provided, That the effect of any such supersedeas
20 shall be to continue in effect the temporary rates, if any,
21 previously established in the proceeding by the commission.

22 (e) In any appeal to the Commonwealth Court, the court may
23 order the complainant in the original complaint to be added to
24 the record as a party, and such party shall be permitted to join
25 in the defense of the order of the commission at issue. The
26 court may also, upon application by petition and cause shown,
27 permit any person to intervene in such proceedings and be added
28 as a party appellant or appellee therein. Notice of such
29 application to intervene shall be served upon the commission
30 within three days of the filing of such application.

1 (f) An answer may be filed by the commission within 30 days
2 after being served with notice of the taking of an appeal. Leave
3 may also be given by the court to any other party to the record
4 to file an answer. Upon the filing of an answer by the
5 commission, or if no such answer is filed within 30 days after
6 service of notice of appeal, the case shall be considered at
7 issue, and a hearing shall be held before such court as
8 hereinafter provided without further pleadings. Copies of the
9 petition and answer, if any, shall be served upon the opposite
10 party or parties within five days after filing the same.

11 (g) No evidence shall be received at the hearing on any
12 appeal, but if any party shall satisfy the court that evidence
13 has been discovered since the hearing before the commission that
14 could not have been obtained for use at that hearing by the
15 exercise of reasonable diligence, and will materially affect the
16 merits of the case, the court may, in its discretion, remand the
17 record and proceedings to the commission with directions to take
18 such after discovered evidence, and, after consideration
19 thereof, to make such order as the commission may deem proper,
20 from which order an appeal shall lie as in the case of any other
21 final order.

22 (h) Any appeal to the Commonwealth Court shall be determined
23 upon the record certified by the commission to the court. All
24 evidence in such record so certified may be considered by the
25 court regardless of any technical rule which might have rendered
26 the same inadmissible, if originally offered in the trial of an
27 action at law. The court may dismiss the appeal, or vacate the
28 order complained of, in whole or in part. In case the order is
29 wholly or partly vacated, the court may also, in its discretion,
30 remand the matter to the commission for such further

1 proceedings, not inconsistent with the decree, as in the opinion
2 of the court justice may require. The order of the commission
3 shall not be vacated or set aside, either in whole or in part,
4 except for error of law or lack of evidence to support the
5 finding, determination, or order of the commission, or violation
6 of constitutional rights. The costs resulting from any appeal
7 shall be upon the appellant, unless the court shall make other
8 disposition of the costs in its decree. The costs resulting from
9 any appeal may not be imposed on the commission, except in cases
10 where the complaint or proceeding was instituted by the
11 commission.

12 (i) All appeals from the orders of the commission to the
13 Commonwealth Court shall take precedence upon the calendars of
14 such court over all civil actions, except election cases, suits
15 for wages, and workmen's compensation cases.

16 (j) Nothing in this act contained shall be construed to
17 deprive any party, upon any such appeal and judicial review of
18 the proceedings and orders of the commission, of the right to
19 trial by jury of any issue of fact raised thereby or therein,
20 where such right is secured either by the Constitution of the
21 Commonwealth or of the United States, but in every such case
22 such right of trial by jury shall remain inviolate: Provided,
23 however, That when any appeal is taken, such right shall be
24 deemed to be waived upon all issues, unless expressly reserved
25 in such reasonable manner as shall be prescribed by the
26 Commonwealth Court.

27 (k) No injunction shall issue modifying, suspending,
28 staying, or annulling any order of the commission, or of a
29 commissioner, except in a proceeding questioning the
30 jurisdiction of the commission, and then only after cause shown

1 upon a hearing.

2 (1) Whenever the commission shall make any rule, regulation,
3 finding, determination, or order under the provisions of this
4 act, the same shall be prima facie evidence of the facts found,
5 and shall remain conclusive upon all parties affected thereby,
6 unless set aside, annulled, or modified in an appeal taken as
7 provided in this act.

8 ARTICLE V

9 PENALTIES

10 Section 501. Civil Penalties for Violations by
11 Communications Public Utilities and Cable Communications
12 Companies.--(a) If any communications public utility, or any
13 other person or corporation subject to this act, shall violate
14 any of the provisions of this act, or shall do any matter or
15 thing herein prohibited; or shall fail, omit, neglect, or refuse
16 to perform any duty enjoined upon it by this act; or shall fail,
17 omit, neglect or refuse to obey, observe, and comply with any
18 regulation or final direction, requirement, determination or
19 order made by the commission, or any order of the commission
20 prescribing temporary rates in any rate proceeding; or to comply
21 with any final judgment, order or decree made by any court, such
22 communications public utility, person or corporation for such
23 violation, omission, failure, neglect, or refusal, shall forfeit
24 and pay to the Commonwealth of Pennsylvania the sum of \$50; to
25 be recovered by an action of assumpsit instituted in the name of
26 the Commonwealth of Pennsylvania, in the Commonwealth Court,
27 which court is hereby clothed with exclusive jurisdiction
28 throughout the Commonwealth to hear and determine all such
29 actions. In construing and enforcing the provisions of this
30 section, the violation, omission, failure, neglect, or refusal

1 of any officer, agent, or employee acting for, or employed by,
2 any such communications public utility or cable company, person
3 or corporation shall, in every case be deemed to be the
4 violation, omission, failure, neglect, or refusal of such
5 communications public utility, person, corporation or cable
6 company.

7 (b) Each and every day's continuance in the violation of any
8 regulation or final direction, requirement, determination, or
9 order of the commission, or of any order of the commission
10 prescribing temporary rates in any rate proceeding, or of any
11 final judgment, order, or decree made by any court, shall be a
12 separate and distinct offense: Provided, however, That if any
13 interlocutory order of supersedeas, or a preliminary injunction
14 be granted, no penalties shall be incurred or collected for or
15 on account of any act, matter, or thing done in violation of
16 such final direction, requirement, determination, order, or
17 decree, so superseded or enjoined for the period of time such
18 order of supersedeas or injunction is in force.

19 Section 502. Penalties for Violations by Individuals,
20 Corporations, Officers, Agents or Employees.--Any person
21 (whether or not an officer, agent, or employee, of any
22 communications public utility or cable communications company)
23 or any corporation, who or which shall knowingly fail, omit,
24 neglect or refuse to obey, observe, and comply with any
25 regulation or final order, direction, or requirement of the
26 commission, or any order of the commission prescribing temporary
27 rates in any rate proceeding, or any final order or decree of
28 any court, or who shall knowingly procure, aid, or abet any such
29 violation, omission, failure, neglect or refusal, shall be
30 guilty of a misdemeanor, and, upon conviction thereof, shall be

1 sentenced to pay the costs of prosecution and a fine of not more
2 than \$500, or undergo imprisonment for not less than one month
3 nor more than one year, or both, at the discretion of the court;
4 and upon conviction of any subsequent offense shall be sentenced
5 to pay the costs of prosecution and a fine of not more than
6 \$1,000, or undergo imprisonment for not less than three months
7 nor more than two years, or both, at the discretion of the
8 court.

9 Section 503. Nonliability for Enforcement of Lawful Tariffs
10 and Rates.--No communications public utility, cable
11 communications company nor any officer, agent or employee
12 thereof, shall be liable for any penalty or forfeiture, or be
13 subject to any prosecution, on account of demanding, collecting,
14 or receiving any rate for any service, or for enforcing any
15 regulation, or practice when such rate, regulation, or practice
16 is contained in a tariff properly filed with the commission, and
17 posted or published as herein provided, and is applicable by the
18 terms thereof at the time to such service although such rate,
19 regulation, method or practice may be found by the commission to
20 be unjust or unreasonable.

21 Section 504. Unlawful Issuance and Assumption of
22 Securities.--Any individual who shall knowingly affix his name
23 or attestation to any stock certificate or other evidence of
24 equitable interest, or any bond, note, trust certificate, or
25 other security issued or assumed by any communications public
26 utility, or cable communications company, or any director who
27 shall knowingly assent to the issuance or assumption of any such
28 stock certificate, or other evidence of equitable interest, or
29 any bond, note or other evidence of indebtedness, or other
30 security issued by any communications public utility, or cable

1 communications company, or any director who shall knowingly
2 assent to the issue of any such certificate of stock, corporate
3 bond, note, trust certificate, or other evidence of
4 indebtedness, or other security of any communications public
5 utility or cable communications company in violation of any of
6 the provisions or requirements of this act, or any individual
7 who shall knowingly make or assent to any false statement in any
8 securities certificate required to be registered with the
9 commission under this act, or who shall by any false statements,
10 oral or written, knowingly make, procure, or seek to procure, of
11 the commission the registration of any such securities
12 certificate, shall be guilty of a misdemeanor, and, upon
13 conviction thereof, shall be sentenced to pay the costs of
14 prosecution and a fine not exceeding \$5,000, or undergo
15 imprisonment for a term not exceeding five years, or both, in
16 the discretion of the court.

17 Section 505. Misapplication of Proceeds of Securities.--Any
18 individual who shall knowingly make or assent to any application
19 or disposition of any stock certificate, or other evidence of
20 equitable interest, or any bond, note, trust certificate, or
21 other evidence of indebtedness, or other security, or the
22 proceeds of the sale or pledge thereof, or any part thereof, in
23 violation of any statement or contrary to any purpose in
24 relation thereto set forth or contained in any securities
25 certificate required to be registered with the commission under
26 the provisions of this act; or who shall knowingly make or
27 assent to any false statement in any report or account to the
28 commission as to the disposition or application of the proceeds,
29 or any part thereof, of any sale or pledge of any stock
30 certificate, or other evidence of equitable interest, or any

1 bond, note, trust certificate, or other evidence of
2 indebtedness, or other security, shall be guilty of a
3 misdemeanor, and, upon conviction thereof, shall be sentenced to
4 pay the costs of prosecution and a fine not exceeding \$5,000, or
5 undergo imprisonment for a term not exceeding five years, or
6 both, in the discretion of the court.

7 Section 506. Execution of Unlawful Contracts.--Any
8 individual who shall knowingly affix his name or attestation to
9 any written contract or arrangement, or who shall enter into any
10 written contract or arrangement, or any individual who shall
11 knowingly assent to the entering into of any written or verbal
12 contract, in violation of any of the provisions or requirements
13 of this act; or any individual knowingly making or assenting to
14 any false statement in any application for the approval of any
15 contract or arrangement, the approval of which is required by
16 this act, shall be guilty of a misdemeanor, and, upon conviction
17 thereof, shall be sentenced to pay the costs of prosecution and
18 a fine not exceeding \$5,000, or undergo imprisonment for a term
19 not exceeding five years, or both, in the discretion of the
20 court.

21 Section 507. Perjury.--Any individual who shall wilfully or
22 corruptly, or both, give any false testimony, under oath or
23 affirmation, in any hearing, investigation, or proceeding before
24 or by the commission, or its representative, or before any
25 notary public or other person authorized by law to take such
26 testimony, shall be guilty of a misdemeanor, and, upon
27 conviction thereof, shall be sentenced to pay the costs of
28 prosecution and a fine not exceeding \$5,000, or undergo
29 imprisonment not exceeding one year, or both, in the discretion
30 of the court.

1 Section 508. Concealment of Witnesses and Records.--If any
2 individual shall absent himself from the jurisdiction of the
3 Commonwealth or conceal himself for the purpose of avoiding
4 service of a subpoena issued by the commission, or its
5 representative; or shall remove relevant data, books, records,
6 papers, or other documents out of this Commonwealth for the
7 purpose of preventing their examination by the commission; or
8 shall destroy or conceal any such data, books, records, papers
9 or other documents for such purpose, he shall be adjudged guilty
10 of contempt; and any court of common pleas may impose a fine of
11 not less than \$100 for each day during the continuance of such
12 refusal, neglect, concealment, or removal; and if such court
13 shall find that the neglect, refusal, or concealment, or the
14 removal or destruction of data, books, records, papers, or other
15 documents by such witness, has been occasioned by the advice or
16 consent of any party to the proceedings before the commission,
17 or in anywise aided or abetted by such party, then, in default
18 of payment of such fine by the individual in contempt, the same
19 shall be paid by such party and may be recovered from such party
20 by an action in the name of the Commonwealth, in any court of
21 common pleas, as other like fines and penalties are now by law
22 recoverable. Imprisonment for contempt shall be by commitment to
23 the county jail of the county in which such hearing is held.

24 Section 509. Liability for Damages Occasioned by Unlawful
25 Acts.--If any person or corporation shall do or cause to be done
26 any act, matter, or thing prohibited or declared to be unlawful
27 by this act, or shall refuse, neglect, or omit to do any act,
28 matter, or thing enjoined or required to be done by this act,
29 such person or corporation shall be liable to the person or
30 corporation injured thereby in the full amount of damages

1 sustained in consequence thereof: Provided, That the liability
2 of communications public utilities, and brokers for negligence,
3 as heretofore established by statute or by common law, shall not
4 be held or construed to be altered or repealed by any of the
5 provisions of this act: And provided further, That the recovery
6 in this section authorized shall in no manner affect a recovery
7 by the Commonwealth of the penalty prescribed in section 501 for
8 such violations of this act.

9 Section 510. Limitations of Actions.--No action for the
10 recovery of any penalties or forfeitures incurred under the
11 provisions of this act, and no prosecutions on account of any
12 matter or thing mentioned in this act, shall be maintained
13 unless brought within three years from the date at which the
14 liability therefor arose, except as otherwise herein provided.
15 All suits, remedies, prosecutions, penalties, and forfeitures
16 provided for, or accruing under, this act, shall be cumulative.

17 Section 511. Disposition of Fines and Penalties.--All fines
18 imposed, and all penalties recovered, under the provisions of
19 this act, shall be paid to the commission, and by it paid into
20 the State Treasury, through the Department of Revenue, to the
21 credit of the General Fund.

22 Section 512. Bribery.--Any officer, attorney, agent, or
23 employee of any communications, public utility or cable
24 communications company who offers to any commissioner, or to any
25 person appointed or employed by the commission, any office,
26 place, appointment, or position, or offers to give to any
27 commissioner, or to any person employed in the service of the
28 commission, any free service, or any reduction in rates to which
29 the public generally is not entitled, or any present, gift, or
30 gratuity, money, or valuable thing of any kind, shall be guilty

1 of a misdemeanor, and, upon conviction thereof, shall be
2 sentenced to pay the costs of prosecution and a fine of not more
3 than \$500, or undergo imprisonment for not less than one month
4 nor more than one year, at the discretion of the court.

5 Section 513. Refusal to Obey Subpoena or Testify.--If any
6 individual who shall be subpoenaed to attend before the
7 commission, or its representative, shall fail to obey the
8 command of such subpoena, or if any individual in attendance
9 before the commission, or its representative, shall refuse to be
10 sworn or to be examined, or to answer any relevant question, or
11 to produce any relevant data, book, record, paper, or document
12 when ordered so to do by the commission, or its representative,
13 such person, upon conviction thereof in a summary proceeding,
14 shall be sentenced to pay the costs of prosecution and a fine of
15 not less than \$50 nor more than \$500.

16 ARTICLE VI

17 EXPENSES AND FEES OF TELECOMMUNICATIONS COMMISSION

18 Section 601. Assessment of Regulatory Expenses Upon
19 Communications Public Utilities.--(a) Before July 1 of each
20 year, the commission shall estimate its total expenditures in
21 the administration of this act for the fiscal year beginning
22 that date, which estimate shall not exceed 2/10 of 1% of the
23 total gross intrastate operating revenues of the communications
24 public utilities under its jurisdiction for the preceding
25 calendar year and 1% of the gross annual revenue of cable
26 communications companies under its jurisdiction. Such estimate
27 shall be submitted to the Governor, and to the appropriate
28 committees of the House and Senate through their respective
29 chairmen, for their respective approvals of such estimate in the
30 amount submitted or such lesser amount as each of them may

1 determine: Provided, That if the Governor or either committee,
2 through its chairman, shall not notify the commission in writing
3 of his or its action within 30 days after such submission, the
4 estimate as submitted shall be deemed approved by him or by such
5 committee, as the case may be. The least of the amounts so
6 approved by the three approving authorities shall be the final
7 estimate; and approval of such least amount shall constitute
8 compliance with section 604 of the act of April 9, 1929
9 (P.L.177, No.175), known as "The Administrative Code of 1929."

10 The commission shall subtract from the final estimate:

11 (1) the estimated fees to be collected pursuant to section
12 602 during such fiscal year; and

13 (2) the estimated balance of the appropriation, specified in
14 section 603, to be carried over into such fiscal year from the
15 preceding one.

16 The remainder so determined, herein called the total assessment,
17 shall be allocated to, and paid by, such communications public
18 utilities in the manner hereafter prescribed. The commission or
19 its designated representatives shall, when requested, appear
20 before the Senate and House Appropriation Committees.

21 (b) On or before March 31 of each year, every communications
22 public utility shall file with the commission a statement under
23 oath showing its gross intrastate operating revenues for the
24 preceding calendar year: Provided, however, That if any
25 communications public utility shall fail to file such statement
26 on or before March 31 as aforesaid the commission shall estimate
27 such revenues, which estimate shall be binding upon the
28 communications public utility for the purposes of this section.
29 For the fiscal year beginning July 1, 1976, the total assessment
30 shall be allocated to and paid by each communications public

1 utility in the proportion that the general assessment charged to
2 it for commission expenditures for the calendar year 1975 bears
3 to the total amount of such general assessment charged to all
4 communications public utilities. For each subsequent fiscal
5 year, the allocation shall be made as follows:

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

11 (2) The commission shall also determine for the preceding
12 calendar year the balance of its expenditures, not debited as
13 aforesaid, and allocate such balance to each group in the
14 proportion which the gross intrastate operating revenues of such
15 group for that year bear to gross intrastate operating revenues
16 of all groups for that year.

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

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

27 (c) The commission shall give notice by registered or
28 certified mail to each communications public utility of the
29 amount lawfully charged against it under the provisions of this
30 section, which amount shall be paid by the communications public

1 utility within 30 days of receipt of such notice, unless the
2 commission specifies on the notices sent to all communications
3 public utilities an installment plan of payment, in which case
4 each communications public utility shall pay each installment on
5 or before the date specified therefor by the commission. Within
6 15 days after receipt of such notice, the communications public
7 utility against which such assessment has been made may file
8 with the commission objections setting out in detail the grounds
9 upon which the objector regards such assessment to be excessive,
10 erroneous, unlawful or invalid. The commission, after notice to
11 the objector, shall hold a hearing upon such objections. After
12 such hearing, the commission shall record upon its minutes its
13 findings on the objections and shall transmit to the objector,
14 by registered or certified mail, notice of the amount, if any,
15 charged against it in accordance with such findings, which
16 amount or any installment thereof then due, shall be paid by the
17 objector within ten days after receipt of notice of the findings
18 of the commission with respect to such objections. If any
19 payment prescribed by this subsection is not made as aforesaid,
20 the commission may suspend or revoke certificates of public
21 convenience, or through the Department of Justice, may institute
22 an appropriate action at law for the amount lawfully assessed,
23 together with any additional cost incurred by the commission or
24 the Department of Justice by virtue of such failure to pay.

25 (d) No suit or proceeding shall be maintained in any court
26 for the purpose of restraining or in anywise delaying the
27 collection or payment of any assessment made under subsections
28 (a), (b), and (c), but every communications public utility
29 against which an assessment is made shall pay the same as
30 provided in subsection (c). Any communications public utility

1 making any such payment may, at any time within two years from
2 the date of payment, sue the Commonwealth in an action at law to
3 recover the amount paid, or any part thereof, upon the ground
4 that the assessment was excessive, erroneous, unlawful, or
5 invalid, in whole or in part, provided objections, as
6 hereinbefore provided, were filed with the commission, and
7 payment of the assessment was made under protest either as to
8 all or part thereof. In any action for recovery of any payments
9 made under this section, the claimant shall be entitled to raise
10 every relevant issue of law, but the findings of fact made by
11 the commission, pursuant to this section, shall be prima facie
12 evidence of the facts therein stated. Any records, books, data,
13 documents, and memoranda relating to the expenses of the
14 commission shall be admissible in evidence in any court, and
15 shall be prima facie evidence of the truth of their contents. If
16 it is finally determined in any such action that all or any part
17 of the assessment for which payment was made under protest was
18 excessive, erroneous, unlawful, or invalid, the commission shall
19 make a refund to the claimant out of the appropriation specified
20 in section 603 as directed by the court.

21 (e) The provisions of this act relating to the judicial
22 review of orders and determinations of the commission shall not
23 be applicable to any findings, determinations, or assessments
24 made under this section. The procedure in this section providing
25 for the determination of the lawfulness of assessments and the
26 recovery back of payments made pursuant to such assessments
27 shall be exclusive of all other remedies and procedures.

28 (f) It is the intent and purpose of this section that each
29 communications public utility subject to this act shall advance
30 to the commission its reasonable share of the cost of

1 administering this act. The commission shall keep records of the
2 costs incurred in connection with the administration and
3 enforcement of this act, or any other act. The commission shall
4 also keep a record of the manner in which it shall have computed
5 the amount assessed against every communications public utility.
6 Such records shall be open to inspection by all interested
7 parties. The determination of such costs and assessments by the
8 commission, and the records and data upon which the same are
9 made, shall be considered prima facie correct; and in any
10 proceeding instituted to challenge the reasonableness or
11 correctness of any assessment under this section, the party
12 challenging the same shall have the burden of proof.

13 (g) Nothing herein contained shall be deemed to repeal any
14 of the provisions of the act of July 31, 1968 (P.L.769, No.240),
15 known as the "Commonwealth Documents Law."

16 Section 602. Fees for Services Rendered by the
17 Telecommunications Commission.--The commission shall charge and
18 collect the following fees for the following services:

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

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

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

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

26 Section 603. Disposition, Appropriation and Disbursement of
27 Assessments and Fees.--(a) All assessments and fees received,
28 collected or recovered under this article shall be paid by the
29 commission into the General Fund of the State Treasury through
30 the Department of Revenue.

1 (b) All such assessments and fees, having been advanced by
2 public utilities communications for the purpose of defraying the
3 cost of administering this act, shall be held in trust solely
4 for that purpose, and shall be earmarked for the use of, and are
5 hereby appropriated to, the commission for disbursement solely
6 for that purpose.

7 (c) All requisitions upon such appropriation shall be signed
8 by the chairman and secretary of the commission, or such
9 deputies as they may designate in writing to the State
10 Treasurer, and shall be presented to the State Treasurer and
11 dealt with by him and the Treasury Department in the manner
12 prescribed by The Fiscal Code.

13 Section 604. Cable Communications Companies.--(a) All costs
14 and expenses of the commission shall be paid pursuant to
15 appropriation in the first instance from the State Treasury, on
16 the certification of the chairman of the commission and upon the
17 audit and warrant of the comptroller. The State Treasury shall
18 be reimbursed therefor by payments to be made thereto from
19 moneys collected pursuant to this article.

20 (b) On or before December 1 of each year, the commission
21 shall estimate the total costs and expenses, including
22 compensation for personal services, necessary to operate and
23 administer the commission with regard to its duties for cable
24 communications for the next ensuing State fiscal year. The
25 commission shall, at such time or times and pursuant to such
26 procedure as it shall determine by regulation, bill and collect
27 from each cable communications company the greater of (i) \$100
28 or (ii) an amount computed by multiplying such total estimated
29 operating expenses of the commission by a fraction the numerator
30 of which is the gross annual receipts of such cable

1 communications company during such 12-month period preceding the
2 date of computation as the commission shall designate by
3 regulation, and the denominator of which is the total gross
4 annual receipts of all cable communications companies operating
5 in the State during such period. A cable communications company
6 may elect to make partial payments for such costs and expenses
7 on March 31, June 30, September 30 and December 31 of each year.
8 In no event shall the amount billed to or collected from any
9 cable communications company pursuant to this section exceed 1%
10 of the gross annual receipts of such company during the 12-month
11 period designated by the commission.

12 (c) Nothing in this article shall be construed to limit the
13 power of any municipality to impose upon any cable
14 communications company, a fee, tax or charge, provided that any
15 such fee, tax or charge when added to the amount payable to the
16 commission pursuant to subsection (b) does not exceed the
17 maximum amount permitted by applicable Federal law, rules or
18 regulations.

19 ARTICLE VII

20 MISCELLANEOUS PROVISIONS

21 Section 701. Transfer to Telecommunications Commission
22 Certain Duties, Powers, Employees and Functions under Existing
23 Law.--(a) The commission shall continue to exercise the powers
24 and perform the duties by law heretofore vested in and imposed
25 upon the Public Utility Commission with respect to
26 communications public utilities defined by this act.

27 (b) All personnel, allocations, appropriations, agreements,
28 equipment, files, records and other material used, employed or
29 expended in connection with the duties, powers or vocations of
30 the Public Utility Commission relating to communications public

1 utilities as defined by this act are transferred to the
2 commission.

3 Section 702. Repeals.--All acts and parts of acts are
4 repealed in so far as they are inconsistent herewith.

5 Section 703. Savings Clause.--The provisions of this act
6 shall not affect any act done, liability incurred or right
7 accrued or vested, or affect any suit or prosecution pending or
8 to be instituted to enforce any right or penalty or punish any
9 offense under the authority of any act or part thereof repealed
10 by this act.

11 Section 704. Effective Date.--This act shall take effect
12 immediately.