
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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Session of
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INTRODUCED BY MESSRS. COWELL, PYLES, COLE, GARZIA, REED, CESSAR,
HALVERSON, PRATT, KUSSE, ABRAHAM, MRS. GILLETTE, MESSRS.
SCHMITT AND BITTINGER, MARCH 7, 1977

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 21, 1977

AN ACT

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

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

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

28 TITLE 66

29 PUBLIC UTILITIES

30 Parts

1 I. Public Utility Code

2 II. Other Provisions (Reserved)

3 PART I

4 PUBLIC UTILITY CODE

5 Subpart

6 A. Preliminary Provisions

7 B. Commission Powers, Duties, Practices and Procedures

8 C. Regulation of Public Utilities Generally

9 D. Special Provisions Relating to Regulation of Public
10 Utilities

11 E. Miscellaneous Provisions

12 SUBPART A

13 PRELIMINARY PROVISIONS

1 Chapter

2 1. General Provisions

3 3. Public Utility Commission

4 CHAPTER 1

5 GENERAL PROVISIONS

6 Sec.

7 101. Short title of part.

8 102. Definitions.

9 103. Prior rights preserved.

10 104. Interstate and foreign commerce.

11 § 101. Short title of part.

12 This part shall be known and may be cited as the "Public
13 Utility Code."

14 § 102. Definitions.

15 Subject to additional definitions contained in subsequent
16 provisions of this part which are applicable to specific

1 provisions of this part, the following words and phrases when
2 used in this part shall have, unless the context clearly
3 indicates otherwise, the meanings given to them in this section:

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

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

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

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

1 the motor vehicles so sold.

2 (2) Transportation of school children for school
3 purposes or to and from school sponsored extra curricular
4 activities whether as participants or spectators, together
5 with chaperons who might accompany them as designated by the
6 board of school directors not exceeding five in number, or
7 between their homes and Sunday school in any motor vehicle
8 owned by the school district, private school or parochial
9 school, or transportation of school children between their
10 homes and school or to and from school-sponsored extra
11 curricular or educational activities whether as participants
12 or spectators, together with chaperons who might accompany
13 them as designated by the board of school directors not
14 exceeding five in number, if the person performing the extra
15 curricular transportation has a contract for the
16 transportation of school children between their homes and
17 school, with the private or parochial school, with the school
18 district or jointure in which the school is located, or with
19 a school district that is a member of a jointure in which the
20 school is located if the jointure has no contracts with other
21 persons for the transportation of students between their
22 homes and school, and if the person maintains a copy of all
23 contracts in the vehicle at all times, or children between
24 their homes and Sunday school in any motor vehicle operated
25 under contract with the school district, private school or
26 parochial school.

27 (3) Any owner or operator of a farm transporting
28 agricultural products from, or farm supplies to, such farm,
29 or any independent contractor or cooperative agricultural
30 association hauling agricultural products or farm supplies

1 exclusively for one or more owners or operators of farms.

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

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

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

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

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

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

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

28 "Facilities." All the plant and equipment of a public
29 utility, including all tangible and intangible real and personal
30 property without limitation, and any and all means and

1 instrumentalities in any manner owned, operated, leased,
2 licensed, used, controlled, furnished, or supplied for, by, or
3 in connection with, the business of any public utility. Property
4 owned by the Commonwealth or any municipal corporation prior to
5 June 1, 1937, shall not be subject to the commission or to any
6 of the terms of this part, except as elsewhere expressly
7 provided in this part.

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

14 "HIGHWAY." A WAY OR PLACE OF WHATEVER NATURE OPEN TO THE USE <—
15 OF THE PUBLIC AS A MATTER OF RIGHT FOR PURPOSES OF VEHICULAR
16 TRAFFIC."

17 "Motor carrier." A common carrier by motor vehicle, and a
18 contract carrier by motor vehicle.

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

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

28 "Person." Individuals, partnerships, or associations other
29 than corporations, and includes their lessees, assignees,
30 trustees, receivers, executors, administrators, or other

1 successors in interest.

2 "Public utility."

3 (1) ~~The term "public utility" includes persons~~ ANY <—
4 PERSON or corporations now or hereafter owning or operating
5 in this Commonwealth equipment or facilities for:

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

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

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

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

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

22 (vi) Conveying or transmitting messages or
23 communications by telephone or telegraph or domestic
24 public land mobile radio service including, but not
25 limited to, point-to-point microwave radio service for
26 the public for compensation.

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

29 (2) The term "public utility" does not include:

30 (i) Any person or corporation, not otherwise a

1 public utility, who or which furnishes service only to
2 himself or itself.

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

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

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

12 "Rate." Every individual, or joint fare, toll, charge,
13 rental, or other compensation whatsoever of any public utility,
14 or contract carrier by motor vehicle, made, demanded, or
15 received for any service within this part, offered, rendered, or
16 furnished by such public utility, or contract carrier by motor
17 vehicle, whether in currency, legal tender, or evidence thereof,
18 in kind, in services or in any other medium or manner
19 whatsoever, and whether received directly or indirectly, and any
20 rules, regulations, practices, classifications or contracts
21 affecting any such compensation, charge, fare, toll, or rental.

22 "Service." Used in its broadest and most inclusive sense,
23 includes any and all acts done, rendered, or performed, and any
24 and all things furnished or supplied, and any and all facilities
25 used, furnished, or supplied by public utilities, or contract
26 carriers by motor vehicle, in the performance of their duties
27 under this part to their patrons, employees, other public
28 utilities, and the public, as well as the interchange of
29 facilities between two or more of them, but shall not include
30 any acts done, rendered or performed, or any thing furnished or

1 supplied, or any facility used, furnished or supplied by public
2 utilities or contract carriers by motor vehicle in the
3 transportation of voting machines to and from polling places for
4 or on behalf of any political subdivision of this Commonwealth
5 for use in any primary, general or special election, or in the
6 transportation of any injured, ill or dead person, or in the
7 transportation by towing of wrecked or disabled motor vehicles,
8 or in the transportation of pulpwood or chemical wood from
9 woodlots.

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

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

22 "Transportation of passengers or property." Any and all
23 service in connection with the receiving, transportation,
24 elevation, transfer in transit, ventilation, refrigeration,
25 icing, storage, handling, and delivering of property, baggage or
26 freight, as well as any and all service in connection with the
27 transportation or carrying of passengers, but shall not mean any
28 service in connection with the receiving, transportation,
29 handling or delivering of voting machines to and from polling
30 places for or on behalf of any political subdivision of this

1 Commonwealth for use in any primary, general or special
2 election, or the transportation of any injured, ill or dead
3 person, or the transportation by towing of wrecked or disabled
4 motor vehicles, or the transportation of pulpwood or chemical
5 wood from woodlots.

6 § 103. Prior rights preserved.

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

15 (b) Existing proceedings, certificates, regulations, tariffs
16 and contracts.--All litigation, hearings, investigations, and
17 other proceedings whatsoever, pending under any repealed statute
18 supplied by this part, shall continue and remain in full force
19 and effect, and may be continued and completed under the
20 provisions of this part. All certificates, permits, licenses,
21 orders, rules, regulations or tariffs made, issued, or filed
22 under any repealed statute supplied by this part, and in full
23 force and effect upon the effective date of this part, shall
24 remain in full force and effect for the term issued, or until
25 revoked, vacated, or modified under the provisions of this part.
26 All existing contracts and obligations of the commission or its
27 predecessor, entered into or created under any repealed statute
28 supplied by this part, and in force and effect upon the
29 effective date of this part, shall remain in full force and
30 effect and shall continue to be performed by the commission.

1 (c) Remedies cumulative.--Except as otherwise provided in
2 this part, nothing in this part shall abridge or alter the
3 existing rights of action or remedies in equity or under common
4 or statutory law of this Commonwealth, and the provisions of
5 this part shall be cumulative and in addition to such rights of
6 action and remedies.

7 § 104. Interstate and foreign commerce.

8 The provisions of this part, except when specifically so
9 provided, shall not apply, or be construed to apply, to commerce
10 with foreign nations, or among the several states, except
11 insofar as the same may be permitted under the provisions of the
12 Constitution of the United States and the acts of Congress.

13 CHAPTER 3

14 PUBLIC UTILITY COMMISSION

15 Subchapter

16 A. General Provisions

17 B. Investigations and Hearings

18 SUBCHAPTER A

19 GENERAL PROVISIONS

20 Sec.

21 301. Establishment, members, qualifications and chairman.

22 302. Removal of commissioner.

23 303. Seal; certified documents.

24 304. Administrative law judges.

25 305. Secretary, employees and consultants.

26 306. Counsel.

27 307. Inspectors for enforcement.

28 308. Bureaus.

29 309. Oaths and subpoenas.

30 310. Depositions.

1 311. Witness fees.
2 312. Privilege and immunity.
3 313. Joint hearings and investigations; reciprocity.
4 314. Investigation of interstate rates, facilities and service.
5 315. Burden of proof.
6 316. Effect of commission action.
7 317. Fees for services rendered by commission.
8 318. Commission to cooperate with other departments.
9 319. Code of ethics.

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

11 (a) Appointment and terms of members.--The Pennsylvania
12 Public Utility Commission, established by the act of March 31,
13 1937 (P.L.160, No.43), as an independent administrative
14 commission, is hereby continued as such and shall consist of
15 five members who shall be appointed by the Governor, by and with
16 the advice and consent of two-thirds of all the members of the
17 Senate, for a term of ten years. No commissioner upon the
18 expiration of his term shall continue to hold office until his
19 successor shall be duly appointed or shall be qualified.

20 (b) Qualifications and restrictions.--Each commissioner, at
21 the time of his appointment and qualification, shall be a
22 resident of this Commonwealth and shall have been a qualified
23 elector therein for a period of at least one year next preceding
24 his appointment, and shall also be not less than 30 years of
25 age. No person shall be appointed a member of the commission OR <—
26 HOLD ANY PLACE, POSITION OR OFFICE UNDER IT, who occupies any
27 official relation to any public utility OR WHO HOLDS ANY OTHER <—
28 APPOINTIVE OR ELECTED OFFICE OF THE COMMONWEALTH OR ANY
29 POLITICAL SUBDIVISION THEREOF. Commencing July 1, 1977,
30 commissioners shall devote full time to their official duties.

1 No commissioner shall hold any office or position, the duties of
2 which are incompatible with the duties of his office as
3 commissioner, or be engaged in any business, employment or
4 vocation, for which he shall receive any remuneration, except as
5 provided in this chapter. No employee, appointee or official
6 engaged in the service of or in any manner connected with, the
7 commission shall hold any office or position, or be engaged in
8 any employment or vocation, the duties of which are incompatible
9 with his employment in the service of or in connection with the
10 work of the commission. No commissioner shall be paid or accept
11 for any service connected with the office, any fee or emolument
12 other than the salary and expenses provided by law. No
13 commissioner shall participate in any hearing or proceeding in
14 which he has any direct or indirect pecuniary interest. Within
15 90 days of confirmation, each commissioner shall disclose, at
16 that time and thereafter annually, the existence of all security
17 holdings in any public utility or its affiliates held by such
18 commissioner, his or her spouse and any minor or unemancipated
19 children and must either divest or place in a blind trust such
20 securities. As used in this part, blind trust means a trust over
21 which neither the commissioners, their spouses, nor any minor or
22 unemancipated children shall exercise any managerial control,
23 and from which neither the commissioners, their spouses, nor any
24 minor or unemancipated children shall receive any income from
25 the trust during the commissioner's tenure of office. Such
26 disclosure statement shall be filed with the secretary of the
27 commission and shall be open to inspection by the public during
28 the normal business hours of the commission during the tenure of
29 the commissioner. Every commissioner, and every individual or
30 official, employed or appointed to office under, in the service

1 of, or in connection with, the work of the commission, is
2 forbidden, directly or indirectly, to solicit or request from,
3 or to suggest or recommend to any public utility, or to any
4 officer, attorney, agent or employee thereof, the appointment of
5 any individual to any office, place or position in, or the
6 employment of any individual in any capacity by, such public
7 utility. Every commissioner, every bureau director and every
8 administrative law judge employed or appointed to office under,
9 in the service of or in connection with the work of the
10 commission, is prohibited from accepting employment with any
11 public utility subject to the rules and regulations of the
12 commission for a period of one year after terminating employment
13 or service with the commission. If any person employed or
14 appointed in the service of the commission violates any
15 provision of this section, the commission shall forthwith remove
16 him from the office or employment held by him.

17 (c) Chairman.--A member designated by the Governor shall be
18 the chairman of the commission during such member's term of
19 office. When present, the chairman shall preside at all
20 meetings, but in his absence a member, designated by the
21 chairman, shall preside and shall exercise, for the time being,
22 all the powers of the chairman. THE CHAIRMAN SHALL HAVE SUCH
23 POWERS AND DUTIES AS AUTHORIZED BY THE COMMISSION AS PROVIDED IN
24 SECTION 331(B) (RELATING TO POWERS OF COMMISSION AND
25 ADMINISTRATIVE LAW JUDGES).

26 (d) Quorum.--A majority of the members of the commission
27 serving in accordance with law shall constitute a quorum and
28 such majority, acting unanimously, shall be required for any
29 action, including the making of any order or the ratification of
30 any act done or order made by one or more of the commissioners.

1 No vacancy in the commission shall impair the right of a quorum
2 of the commissioners to exercise all the rights and perform all
3 the duties of the commission.

4 (e) Compensation.--Each of the commissioners shall receive
5 an annual salary of \$35,000, as of January 1, 1977, and \$40,000,
6 as of January 1, 1978, except the chairman, who shall receive an
7 annual salary of \$37,500, as of January 1, 1977, and \$42,500, as
8 of January 1, 1978.

9 (f) Open proceedings.--The proceedings of the commission
10 shall be conducted in accordance with the provisions of the act
11 of July 19, 1974 (P.L.486, No.175), referred to as the Public
12 Agency Open Meeting Law.

13 (g) Monitoring cases.--Each commissioner shall be
14 responsible for monitoring specified cases as shall be assigned
15 to him in a manner determined by the commission. All proceedings
16 properly before the commission shall be assigned immediately
17 upon filing.

18 § 302. Removal of commissioner.

19 The Governor, by and with the consent of two-thirds of all of
20 the members of the Senate, shall remove from office any
21 commissioner who violates the provision of section 301(b)
22 (relating to establishment, members, qualifications and
23 chairman) requiring commissioners to devote full time to their
24 official duties and may remove any commissioner for
25 inefficiency, neglect of duty or misconduct in office, giving
26 him a copy of the charges against him, and affording him an
27 opportunity to be publicly heard in person or by counsel in his
28 own defense upon not less than ten days notice. If the
29 commissioner is removed, the Governor shall file with the
30 Department of State a complete statement of all charges made

1 against the commissioner and his finding thereon, together with
2 a complete record of the proceedings.

3 § 303. Seal; certified documents.

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

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

17 § 304. Administrative law judges.

18 (a) General rule.--The office of administrative law judge to
19 the Pennsylvania Public Utility Commission is hereby created.
20 The commission shall have the power to appoint as many qualified
21 and competent administrative law judges as may be necessary for
22 proceedings pursuant to this part, and who shall devote full
23 time to their official duties and who shall perform no duties
24 inconsistent with their duties and responsibilities as
25 administrative law judges. Administrative law judges shall be
26 afforded employment security as provided by the act of August 5,
27 1941 (P.L.752, No.286), known as the "Civil Service Act."
28 Compensation for administrative law judges shall be established
29 by the commission within a range of \$25,000 to \$35,000. If the
30 commission is occasionally and temporarily understaffed of

1 administrative law judges, the commission may appoint qualified
2 and competent persons who meet the minimum standards established
3 by this part to temporarily serve as such judges, who shall
4 serve at the pleasure of the commission and shall receive such
5 compensation as the commission may establish.

6 (b) Staff.--The commission may appoint secretaries and legal
7 or technical advisors to assist each judge in performance of his
8 duties or may assign personnel from any of the other bureaus
9 within the commission.

10 (c) Qualifications.--All judges must meet the following
11 minimum requirements:

12 (1) Be an attorney in good standing before the Supreme
13 Court of Pennsylvania.

14 (2) Have three years of practice before administrative
15 agencies or equivalent experience.

16 (3) Conform to such other requirements as shall be
17 established by the commission.

18 (d) Chief administrative law judge.--The commission shall
19 appoint one of the administrative law judges as chief
20 administrative law judge who shall be responsible for assigning
21 a hearing judge to every proceeding before the commission which
22 may require the utilization of an administrative law judge and
23 who shall receive remuneration above that of any other
24 administrative law judge. The position of chief administrative
25 law judge may not be withdrawn from a person so appointed, nor
26 his salary diminished, except for good cause shown. The chief
27 administrative law judge shall have such other responsibilities
28 as the commission may by rule prescribe.

29 § 305. Secretary, employees and consultants.

30 (a) Secretary.--The commission may appoint and fix the

1 compensation of a secretary to hold office at its pleasure. The
2 secretary shall have such powers and shall perform such duties
3 not contrary to law as the commission shall prescribe. The
4 commission shall have power and authority to designate, from
5 time to time, one of its clerks to perform the duties of the
6 secretary during his absence, and the clerk so designated shall
7 possess, for the time so designated, the powers of the secretary
8 of the commission.

9 (b) Employees and consultants.--The commission may appoint,
10 fix the compensation of, authorize and delegate such officers,
11 consultants, experts, engineers, statisticians, accountants,
12 inspectors, clerks and employees as may be appropriate for the
13 proper conduct of the work of the commission. The total
14 compensation paid to consultants in any fiscal year shall not
15 exceed 4% of the commission's budget. The commission shall keep
16 records of the names of each consultant, the services performed
17 for the commission, and the amounts expended for each
18 consultant's services. The commission shall submit these records
19 as a part of its annual budget submission. Such records shall be
20 a matter of public record open for inspection at the office of
21 the commission during the normal business hours of the
22 commission. The commission shall establish, after consultation
23 with the Civil Service Commission, standardized qualifications
24 for employment and advancement, and all titles, and establish
25 different standards for different kinds, grades, and classes of
26 similar work or service. The employees of the commission shall
27 be afforded employment security as provided by the act of August
28 5, 1941 (P.L.752, No.286), known as the "Civil Service Act," or
29 the appropriate collective bargaining agreement, whichever is
30 applicable, but the commission shall set the salaries of all

1 employees in accordance with the employment standards
2 established under this section.

3 § 306. Counsel.

4 The office of chief counsel to the Pennsylvania Public
5 Utility Commission is hereby created. The chief counsel shall be
6 appointed by the commission and hold office at its pleasure. The
7 commission may also from time to time appoint such assistant
8 counsel to the commission as may be required for the proper
9 conduct of its work. Assistant counsel may be removed by the
10 commission only for good cause. The compensation of the counsel
11 shall be fixed by the commission. In accordance with the
12 multifunction legal staff established in this part, such counsel
13 shall attend the hearings before the commission or a
14 commissioner, or a special agent or administrative law judge,
15 and conduct the examination of witnesses and shall represent the
16 commission upon appeals and other hearings in the courts of
17 common pleas and in the Commonwealth and Supreme Courts, or
18 other courts of this Commonwealth, or in any Federal court or
19 agency and in actions instituted to recover penalties and to
20 enforce regulations and orders of the commission. Such counsel
21 shall also assist the Attorney General in conducting all
22 mandamus, injunction and quo warranto proceedings at law or in
23 equity, instituted by him for the enforcement of the regulations
24 and orders of the commission, and shall perform such other
25 professional duties as may be required of them by the
26 commission.

27 § 307. Inspectors for enforcement.

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

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

9 § 308. Bureaus.

10 (a) Enumeration.--There shall be established within the
11 commission the following bureaus and functions:

12 (1) Law Bureau.

13 (2) Bureau of Conservation, Economics and Energy
14 Planning.

15 (3) Bureau of Consumer Services.

16 (b) Law Bureau.--The Law Bureau shall be a multifunction
17 legal staff, consisting of a prosecutory function and an
18 advisory function. Prosecutory counsel shall be responsible for
19 and shall assist in the development of, challenge of, and
20 representation on the record of all matters in the public's
21 interest. Advisory counsel shall advise the commission on any
22 and all matters. The counsel shall appear on behalf of the
23 commission in all courts of record and before district
24 magistrates. No counsel shall in the same case or a factually
25 related case perform duties in the prosecutory and advisory
26 functions, if such performance would represent a conflict of
27 interest.

28 (c) Bureau of Conservation, Economics and Energy Planning.--
29 The Bureau of Conservation, Economics and Energy Planning shall
30 conduct studies and research all matters within the commission's

1 jurisdiction and advise the commission of the results thereof in
2 order to enable the commission to provide prospective regulation
3 in the best interest of all parties concerned. Such studies and
4 research shall include long range forecasting of energy needs
5 and development; research into the use of new, efficient and
6 economic methods of energy production; the review of the
7 efficiency of the present generating systems operated within
8 this Commonwealth; and the development of an effective program
9 of energy conservation. The commission shall require all
10 electric and gas public utilities subject to its jurisdiction to
11 file with it an annual conservation report which shows the plans
12 and progress achieved on programs of energy conservation. The
13 commission shall, by rule, prescribe guidelines for the form and
14 manner of such annual conservation report which report shall
15 describe the current and proposed programs of each such utility
16 designed to educate and encourage its customers in the optimum,
17 effective and efficient use by them of electric and gas energy.
18 The report shall include an accounting of the monetary and
19 personnel resources actually or proposed to be expended or
20 devoted to and the actual or anticipated results of such
21 programs. The bureau shall review all proposals for electric and
22 gas public utility plant expansion and shall submit for
23 consideration of the commission its findings on what impact, if
24 any, the electric and gas public utility plant expansion will
25 have on rates charged by the public utility.

26 (d) Bureau of Consumer Services.--The Bureau of Consumer
27 Services shall investigate and have prepared replies to all
28 informal consumer complaints and shall advise the commission as
29 to the need for formal commission action on any matters brought
30 to its attention by the complaints. The bureau shall on behalf

1 of the commission keep records of all complaints received, the
2 matter complained of, the utility involved, and the disposition
3 thereof and shall at least annually report to the commission on
4 such matters. The commission may take official notice of all
5 complaints and the nature thereof in any proceeding before the
6 commission in which the utility is a party. The commission shall
7 adopt, publish and generally make available rules by which a
8 consumer may make informal complaints. The bureau shall also
9 assist and advise the commission on matters of safety compliance
10 by public utilities.

11 (e) Other bureaus.--The commission shall establish such
12 bureau or bureaus to perform such duties as the commission may
13 prescribe regarding all matters respecting rates of public
14 utilities and all matters respecting common carriers and
15 contract carriers. The establishment of these bureaus shall not
16 be construed to prohibit the commission from establishing any
17 additional bureaus which the commission finds necessary to
18 protect the interests of the people of this Commonwealth. The
19 bureaus may perform such other duties not inconsistent with law
20 as the commission may direct.

21 (f) Staff testimony.--Members of the staff of the commission
22 shall appear and present testimony in any proceeding before the
23 commission when called by the commission or any of the parties
24 to the proceeding. In addition to any cross-examination by
25 counsel as provided in section 306 (relating to counsel), any
26 member of the commission staff who participates in the analysis,
27 review and conclusions in any proceedings before the commission
28 may, in the discretion of commission counsel and with the
29 consent of the presiding officer, cross-examine any witness
30 presented by the parties to the proceeding at the public

1 hearing.

2 § 309. Oaths and subpoenas.

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

13 § 310. Depositions.

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

19 § 311. Witness fees.

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

29 § 312. Privilege and immunity.

30 No person shall be excused from testifying or from producing

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

13 § 313. Joint hearings and investigations; reciprocity.

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

25 (b) Reciprocity.--The commission shall have full power and
26 authority to arrange reciprocity of treatment of public
27 utilities and contract carriers by motor vehicle of this
28 Commonwealth by regulatory bodies, under regulatory laws of
29 other states, and to that end the commission is hereby vested
30 with power to impose upon public utilities and contract carriers

1 by motor vehicle of other states, the same penalties,
2 restrictions, and regulations as are imposed by the regulatory
3 body of such other states upon public utilities and contract
4 carriers by motor vehicle of this Commonwealth when operating
5 into, out of, or through such other states.

6 § 314. Investigation of interstate rates, facilities and
7 service.

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

20 § 315. Burden of proof.

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

29 (b) Compliance with commission determinations and orders.--
30 In any case involving any alleged violation by a public utility,

1 contract carrier by motor vehicle, or broker of any lawful
2 determination or order of the commission, the burden of proof
3 shall be upon the public utility, contract carrier by motor
4 vehicle, or broker complained against, to show that the
5 determination or order of the commission has been complied with.

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

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

18 (e) Use of future test year.--In discharging its burden of
19 proof the utility may utilize a future test year. The commission
20 shall promptly adopt rules and regulations regarding the
21 information and data to be submitted when and if a future test
22 period is to be utilized. Whenever a utility utilizes a future
23 test year in any rate proceeding and such future test year forms
24 a substantive basis for the final rate determination of the
25 commission, the utility shall provide, as specified by the
26 commission in its final order, appropriate data evidencing the
27 accuracy of the estimates contained in the future test year, and
28 the commission may after reasonable notice and hearing, in its
29 discretion, adjust the utility's rates on the basis of such
30 data.

1 § 316. Effect of commission action.

2 Whenever the commission shall make any rule, regulation,
3 finding, determination or order, the same shall be prima facie
4 evidence of the facts found and shall remain conclusive upon all
5 parties affected thereby, unless set aside, annulled or modified
6 on judicial review. THE ISSUING OR REGISTRATION BY THE
7 COMMISSION OF ANY CERTIFICATE, LICENSE OR PERMIT WHATSOEVER, <—
8 UNDER THE PROVISIONS OF THIS PART, OR ANY FINDING, DETERMINATION
9 OR ORDER MADE BY THE COMMISSION REFUSING OR GRANTING SUCH
10 CERTIFICATES, LICENSES OR PERMITS, SHALL NOT BE CONSTRUED TO
11 REVIVE OR VALIDATE ANY LAPSED, TERMINATED, INVALIDATED OR VOID
12 POWERS, FRANCHISES, RIGHTS OR PRIVILEGES; OR TO ENLARGE OR ADD
13 TO THE RIGHTS, POWERS, FRANCHISES OR PRIVILEGES CONTAINED IN ANY
14 CHARTER, OR IN THE GRANT OF ANY FRANCHISE, OR ANY SUPPLEMENT OR
15 AMENDMENT TO ANY CHARTER, OR TO GIVE OR REMIT ANY FORFEITURE.

16 § 317. Fees for services rendered by commission.

17 (a) General rule.--The commission shall by rule establish on
18 a reasonable cost basis the fees to be charged and collected for
19 the following services:

- 20 (1) Copies of paper, testimony and records.
21 (2) Certifying a copy of any paper, testimony or record.
22 (3) Preparing and certifying to the Commonwealth Court
23 any record in an appeal.
24 (4) Filing of each securities certificate, or each
25 application for a certificate of public convenience,
26 registration certificate, permit or license.

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

1 For testing each watthour meter, \$16.

2 For testing each indicating instrument, \$10.

3 For testing each instrument transformer, \$10.

4 For testing each standard cell, \$5.

5 For testing each standard resistance, \$10.

6 For testing each potentiometer, \$50.

7 For testing each gas meter prover, \$35.

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

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

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

14 For each water meter tested at the commission laboratory,
15 \$3.

16 § 318. Commission to cooperate with other departments.

17 (a) Vehicle registration plates.--The Department of
18 Transportation and the commission are hereby authorized and
19 directed to cooperate in the issuance by the Department of
20 Transportation, under the provisions of Title 75 (relating to
21 vehicles), of registration plates for commercial motor vehicles,
22 which will classify and identify motor vehicles operated under
23 certificates or permits issued by the commission, without the
24 necessity of the requirement of separate identification plates
25 in addition to registration plates required under Title 75.

26 (b) Purity of water supply.--The commission may certify to
27 the Department of Environmental Resources any question of fact
28 regarding the purity of water supplied to the public by any
29 public utility over which it has jurisdiction, when any such
30 question arises in any controversy or other proceeding before

1 it, and upon the determination of such question by the
2 department incorporate the department's findings in its
3 decision.

4 (c) Powers of certain governmental agencies unaffected.--
5 Nothing in this part shall be construed to deprive the
6 Department of Health or the Department of Environmental
7 Resources of any jurisdiction, powers or duties now vested in
8 them.

9 § 319. Code of ethics.

10 (a) General rule.--Each commissioner and each administrative
11 law judge shall conform to the following code of ethics for the
12 Public Utility Commission. A commissioner and an administrative
13 law judge must:

14 (1) Avoid impropriety and the appearance of impropriety
15 in all activities.

16 (2) Perform all duties impartially and diligently.

17 (3) Avoid all ex parte communications prohibited in this
18 part.

19 (4) Abstain publicly from expressing, other than in
20 executive or public session, his personal views on the merits
21 of a matter pending before the commission and require similar
22 abstention on the part of commission personnel subject to his
23 direction and control.

24 (5) Require staff and personnel subject to his direction
25 to observe the standards of fidelity and diligence that apply
26 to the commissioner and administrative law judge.

27 (6) Initiate appropriate disciplinary measures against
28 commission personnel for unprofessional conduct.

29 (7) Disqualify himself from proceedings in which his
30 impartiality might be reasonably questioned.

1 (8) Inform himself about his personal and fiduciary
2 interests and make a reasonable effort to inform himself
3 about the personal financial interests of his spouse and
4 children.

5 (9) Regulate his extra-curricular activities to minimize
6 the risk of conflict with his official duties. He may speak,
7 write or lecture and any reimbursed expenses, honorariums,
8 royalties, or other moneys received in connection therewith
9 shall be disclosed annually. Such disclosure statement shall
10 be filed with the secretary of the commission and shall be
11 open to inspection by the public during the normal business
12 hours of the commission during the tenure of the commissioner
13 or of the administrative law judge.

14 (10) Refrain from solicitation of funds for any
15 political, educational, religious, charitable, fraternal or
16 civic purposes, although he may be an officer, director or
17 trustee of such organizations.

18 (11) Refrain from financial or business dealing which
19 would tend to reflect adversely on impartiality, although the
20 commissioner or administrative law judge may hold and manage
21 investments which are not incompatible with the duties of his
22 office.

23 (12) Conform to such additional rules as the commission
24 may prescribe.

25 (b) Removal of commissioner for violation.--Any commissioner
26 who violates the provisions of subsection (a) shall be removed
27 from office in the manner provided in section 302 (relating to
28 removal of commissioner).

29 (c) Removal of judge for violation.--Any administrative law
30 judge who violates the provisions of subsection (a) shall be

1 removed from office in the manner provided by the act of August
2 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

3 SUBCHAPTER B

4 INVESTIGATIONS AND HEARINGS

5 Sec.

6 331. Powers of commission and administrative law judges.

7 332. Procedures in general.

8 333. Prehearing procedures.

9 334. Presiding officers.

10 335. Initial decisions.

11 § 331. Powers of commission and administrative law judges.

12 (a) General rule.--THE COMMISSION MAY, ON ITS OWN MOTION AND <—
13 WHENEVER IT MAY BE NECESSARY IN THE PERFORMANCE OF ITS DUTIES,
14 INVESTIGATE AND EXAMINE THE CONDITION AND MANAGEMENT OF ANY
15 PUBLIC UTILITY OR ANY OTHER PERSON OR CORPORATION SUBJECT TO
16 THIS PART. IN CONDUCTING THE INVESTIGATIONS THE COMMISSION MAY
17 PROCEED, EITHER WITH OR WITHOUT A HEARING, AS IT MAY DEEM BEST,
18 BUT IT SHALL MAKE NO ORDER WITHOUT AFFORDING THE PARTIES
19 AFFECTED THEREBY A HEARING. Any investigation, inquiry or
20 hearing which the commission has power to undertake or hold
21 shall be conducted pursuant to the provisions of this chapter.

22 (b) Powers of chairman.--The commission may authorize the
23 chairman to:

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

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

29 (3) Assign cases to special agents or administrative law
30 judges for the taking and receiving of evidence.

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

5 (5) Be responsible through the secretary for
6 specifically enumerated daily administrative operations of
7 the commission.

8 (c) Requirements for presiding officers.--There shall
9 preside at the taking of evidence the commission, one or more
10 commissioners, or one or more administrative law judges
11 appointed as provided in this chapter. The functions of all
12 presiding officers shall be conducted in an impartial manner.
13 Any such officer may at any time withdraw from a proceeding if
14 he deems himself disqualified, and, upon the filing in good
15 faith of a timely and sufficient affidavit of personal bias or
16 disqualification of any such officer, the commission shall
17 determine the matter as a part of the record and decision in the
18 proceeding.

19 (d) Authority of presiding officers.--In addition to any
20 administrative rules of procedure contained in this part, the
21 commission may adopt and publish such additional rules of
22 procedure as are not inconsistent with this part. Officers
23 presiding at hearings shall have authority subject to the
24 published rules of the commission and within its powers, to:

25 (1) Administer oaths and affirmations.

26 (2) Issue subpoenas authorized by law.

27 (3) Rule upon offers of proof and receive relevant
28 evidence, take or cause depositions to be taken whenever the
29 ends of justice would be served thereby.

30 (4) Regulate the course of the hearing.

1 (5) Hold conferences for settlement or simplification of
2 the issues by consent of the parties.

3 (6) Dispose of procedural requests or similar matters.

4 (7) Make decisions or recommend decisions in conformity
5 within this part.

6 (8) Take any other action authorized by commission rule.

7 (e) Interlocutory appeals.--A presiding officer may certify
8 to the commission, or allow the parties an interlocutory appeal
9 to the commission on any material question arising in the course
10 of a proceeding, where he finds that it is necessary to do so to
11 prevent substantial prejudice to any party or to expedite the
12 conduct of the proceeding. The presiding officer or the
13 commission may thereafter stay the proceeding if necessary to
14 protect the substantial rights of any of the parties therein.
15 The commission shall determine the question forthwith and the
16 hearing and further decision shall thereafter be governed
17 accordingly. No interlocutory appeal to the commission shall
18 otherwise be allowed, except as may be allowed by the
19 commission.

20 (f) Declaratory orders.--The commission, with like effect as
21 in the case of other orders, and in its sound discretion, may
22 issue a declaratory order to terminate a controversy or remove
23 uncertainty.

24 (g) Official notice defined.--As used in this chapter the
25 term "official notice" means a method by which the commission
26 may notify all parties that no further evidence will be heard on
27 a material fact and that unless the parties prove to the
28 contrary, the commission's findings will include that particular
29 fact.

30 § 332. Procedures in general.

1 (a) Burden of proof.--Except as may be otherwise provided in
2 section 315 (relating to burden of proof) or other provisions of
3 this part or other relevant statute, the proponent of a rule or
4 order has the burden of proof.

5 (b) Admissibility of evidence.--Any oral or documentary
6 evidence may be received, but the commission shall as a matter
7 of policy provide for the exclusion of irrelevant, immaterial or
8 unduly repetitious evidence. No sanction shall be imposed or
9 rule or order be issued except upon consideration of the whole
10 record or such portions thereof as may be cited by any party and
11 as supported by and in accordance with the reliable, probative
12 and substantial evidence.

13 (c) Submission of evidence.--Every party is entitled to
14 present his case or defense by oral or documentary evidence, to
15 submit rebuttal evidence and to conduct such cross-examination
16 as may be required for a full and true disclosure of the facts.
17 The commission may, by rule, adopt procedures for the submission
18 of all or part of the evidence in written form.

19 (d) Record, briefs and argument.--The transcript of
20 testimony and exhibits, together with all papers and requests
21 filed in the proceeding, constitutes the exclusive record for
22 decision, and shall be available for inspection by the public.
23 Briefing and oral argument shall be held in accordance with
24 rules established by the commission.

25 (e) Official notice of facts.--When the commission's
26 decision rests on official notice of a material fact not
27 appearing in the evidence in the record, upon notification that
28 facts are about to be or have been noticed, any party adversely
29 affected shall have the opportunity upon timely request to show
30 that the facts are not properly noticed or that alternative

1 facts should be noticed. The commission in its discretion shall
2 determine whether written presentations suffice, or whether oral
3 argument, oral evidence, or cross-examination is appropriate in
4 the circumstances. Nothing in this subsection shall affect the
5 application by the commission in appropriate circumstances of
6 the doctrine of judicial notice.

7 (f) Actions of parties and counsel.--Any party who shall
8 fail to be represented at a scheduled conference or hearing
9 after being duly notified thereof, shall be deemed to have
10 waived the opportunity to participate in such conference or
11 hearing, and shall not be permitted thereafter to reopen the
12 disposition of any matter accomplished thereat, or to recall for
13 further examination of witnesses who were excused, unless the
14 presiding officer shall determine that failure to be represented
15 was unavoidable and that the interests of the other parties and
16 the public would not be prejudiced by permitting such reopening
17 or further examination. If the actions of a party or counsel in
18 a proceeding shall be determined by the commission, after due
19 notice and opportunity for hearing, to be obstructive to the
20 orderly conduct of the proceeding and inimical to the public
21 interest, the commission may reject or dismiss any rule or order
22 in any manner proposed by the offending party or counsel, and,
23 with respect to counsel, may bar further participation by him in
24 any proceedings before the commission.

25 § 333. Prehearing procedures.

26 (a) Conferences.--The presiding officer shall have the
27 authority to hold one or more prehearing conferences during the
28 course of the proceeding on his own motion or at the request of
29 a party to the proceeding. The presiding officer shall normally
30 hold at least one prehearing conference in proceedings where the

1 issues are complex or where it appears likely that the hearing
2 will last a considerable period of time. In addition to other
3 matters which the commission may prescribe by rule, the
4 presiding officer at a prehearing conference may direct the
5 parties to exchange their evidentiary exhibits and witness lists
6 prior to the hearing. Where good cause exists, the parties may
7 at any time amend, by deletion or supplementation, their
8 evidentiary exhibits and witness lists.

9 (b) Depositions.--A party to the proceeding shall be able to
10 take depositions of witnesses upon oral examination or written
11 questions for purposes of discovering relevant, unprivileged
12 information, subject to the following conditions:

13 (1) The taking of depositions shall normally be deferred
14 until there has been at least one prehearing conference.

15 (2) The party seeking to take a deposition shall apply
16 to the presiding officer for an order to do so.

17 (3) The party seeking to take a deposition shall serve
18 copies of the application on the other party or parties to
19 the proceedings, who shall be given an opportunity, along
20 with the deponent, to notify the presiding officer of any
21 objections to the taking of the deposition.

22 (4) The presiding officer shall not grant an application
23 to take a deposition if he finds that the taking of the
24 deposition would result in undue delay.

25 (5) The presiding officer shall otherwise grant an
26 application to take a deposition unless he finds that there
27 is not good cause for doing so.

28 (6) The deposing of a commission employee shall only be
29 allowed upon an order of the presiding officer based on a
30 specific finding that the party applying to take the

1 deposition is seeking significant, unprivileged information
2 not discoverable by alternative means. Any such order shall
3 be subject to an interlocutory appeal to the commission.

4 (7) An order to take a deposition shall be enforceable
5 through the issuance of a subpoena ad testificandum.

6 (c) Disclosure of information on witnesses.--At the
7 prehearing conference or at some other reasonable time prior to
8 the hearing, which may be established by commission rule, each
9 party to the proceeding shall make available to the other
10 parties to the proceeding the names of the witnesses he expects
11 to call and the subject matter of their expected testimony.

12 Where good cause exists, the parties shall have the right at any
13 time to amend, by deletion or supplementation, the list of names
14 of the witnesses they plan to call and the subject matter of the
15 expected testimony of those witnesses.

16 (d) Interrogatories.--Any party to a proceeding may serve
17 written interrogatories upon any other party for purposes of
18 discovering relevant, unprivileged information. A party served
19 with interrogatories may, before the time prescribed either by
20 commission rule or otherwise for answering the interrogatories,
21 apply to the presiding officer for the holding of a prehearing
22 conference for the mutual exchange of evidence exhibits and
23 other information. Each interrogatory which requests information
24 not previously supplied at a prehearing conference or hearing
25 shall be answered separately and fully in writing under oath,
26 unless it is objected to, in which event the reasons for the
27 objections shall be stated in lieu of an answer. The party upon
28 whom the interrogatories have been served shall serve a copy of
29 the answers and objections within a reasonable time, unless
30 otherwise specified, upon the party submitting the

1 interrogatories. The party submitting the interrogatories may
2 petition the presiding officer for an order compelling an answer
3 to an interrogatory or interrogatories to which there has been
4 an objection or other failure to answer. The commission shall
5 designate an appropriate official on whom other parties to the
6 proceeding may serve written interrogatories directed to the
7 commission. That official shall arrange for agency personnel
8 with knowledge of the facts to answer and sign the
9 interrogatories on behalf of the commission. The attorney or
10 employee appearing on behalf of the commission in the proceeding
11 shall have the authority to make and sign objections to
12 interrogatories served upon the commission. Interrogatories
13 directed to the commission shall be allowed only upon an order
14 of the commission based upon a specific finding that the
15 interrogating party is seeking significant, unprivileged
16 information not discoverable by alternative means.

17 (e) Requests for admissions.--A party to a proceeding may
18 serve upon any other party and upon the commission to the same
19 extent permissible in subsection (d) a written request for the
20 admission, for purposes of the pending proceeding and to
21 conserve hearing time, of any relevant, unprivileged, undisputed
22 facts, the genuineness of any document described in the request,
23 the admissibility of evidence, the order of proof and other
24 similar matters.

25 (f) Subpoena duces tecum.--A party to a proceeding may
26 obtain in accordance with commission rules a subpoena duces
27 tecum requiring the production of or the making available for
28 inspection, copying or photographing of relevant necessary
29 designated documents at a prehearing conference or other
30 specific time and place.

1 (g) Scheduling.--The presiding officer shall have the
2 authority to impose schedules on the parties to the proceeding
3 specifying the periods of time during which the parties may
4 pursue each means of discovery available to them under the rules
5 of the commission. Such schedules and time periods shall be set
6 with a view to accelerating disposition of the case to the
7 fullest extent consistent with fairness.

8 (h) Certification of interlocutory appeals.--Except as
9 provided in subsection (b)(6), an interlocutory appeal from a
10 ruling of the presiding officer on discovery shall be allowed
11 only upon certification by the presiding officer that the ruling
12 involves an important question of law or policy which should be
13 resolved at that time. Notwithstanding the presiding officer's
14 certification, the commission shall have the authority to
15 dismiss summarily the interlocutory appeal if it should appear
16 that the certification was improvident. An interlocutory appeal
17 shall not result in a stay of the proceedings except upon a
18 finding by the presiding officer and the commission that
19 extraordinary circumstances exist.

20 (i) Protective orders.--The presiding officer shall have the
21 authority, upon motion by a party or by the person from whom
22 discovery is sought, and for good cause shown, to make any
23 order, subject to the rules of the commission, which justice
24 requires to protect the party or person.

25 (j) Other subpoenas.--The presiding officer shall have the
26 power in accordance with commission rules to issue subpoenas ad
27 testificandum and duces tecum at any time during the course of
28 the proceeding.

29 § 334. Presiding officers.

30 (a) Presiding officers to decide.--The same presiding

1 officer shall to the fullest extent possible preside at all the
2 reception of evidence in a particular case to which he has been
3 assigned. The same presiding officer who presides at the
4 reception of evidence shall make the recommended decision or
5 initial decision except where such presiding officer becomes
6 unavailable to the commission.

7 (b) Outside consultation prohibited.--Save to the extent
8 required for the disposition of ex parte matters not prohibited
9 by this part, no presiding officer shall consult any person or
10 party on any fact in issue unless upon notice and opportunity
11 for all parties to participate; nor shall any presiding officer
12 be responsible to or subject to the supervision or direction of
13 any officer, employee or agent engaged in the performance of
14 investigative or prosecuting functions for the commission. No
15 employee, appointee, commissioner or official engaged in the
16 service of, or in any manner connected with the commission shall
17 engage in ex parte communications save to the extent permitted
18 by this part. No officer, employee or agent engaged in the
19 performance of investigative or prosecuting functions for the
20 commission in any case shall, in that or a factually related
21 case, participate or advise in the decision, recommended
22 decision or commission review, except as witness or counsel in
23 public proceedings.

24 (c) Ex parte communications.--Ex parte communications
25 prohibited in this section shall mean any off-the-record
26 communications to or by any member of the commission,
27 administrative law judge, or employee of the commission,
28 regarding the merits or any fact in issue of any matter pending
29 before the commission in any contested on-the-record proceeding.
30 Contested on-the-record proceeding means a proceeding required

1 by a statute, constitution, published commission rule or
2 regulation or order in a particular case, to be decided on the
3 basis of the record of a commission hearing, and in which a
4 protest or a petition or notice to intervene in opposition to
5 requested commission action has been filed. This subsection does
6 not prohibit off-the-record communications to or by any employee
7 of the commission prior to the actual beginning of hearings in a
8 contested on-the-record proceeding when such communications are
9 solely for the purpose of seeking clarification of or
10 corrections in evidentiary materials intended for use in the
11 subsequent hearings.

12 § 335. Initial decisions.

13 (a) Procedures.--When the commission does not preside at the
14 reception of evidence, the presiding officer shall initially
15 decide the case, unless the commission requires, either in
16 specific cases or by general rule, the entire record to be
17 certified to it for decision. When the presiding officer makes
18 an initial decision, that decision then shall be approved by the
19 commission and may become the opinion of the commission without
20 further proceeding within the time provided by commission rule.
21 On review of the initial decision, the commission has all the
22 powers which it would have in making the initial decision except
23 as it may limit the issues on notice or by rule. When the
24 commission makes the decision in a rate determination proceeding
25 without having presided at the reception of the evidence, the
26 presiding officer shall make a recommended decision to the
27 commission in accordance with the provisions of this part.
28 Alternatively, in all other matters:

29 (1) the commission may issue a tentative decision or one
30 of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the commission finds on the record that due and timely execution of the functions imperatively and unavoidably so requires.

(b) Exceptions or proposed findings and conclusions.--Before a recommended, initial or tentative decision issued under this section, or a decision on commission review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the commission:

(1) (i) proposed findings and conclusions; or

(ii) exceptions to the decisions or recommended decisions of subordinate employees or to tentative commission decisions; and

(2) supporting reason for the exceptions or proposed findings or conclusions.

(c) Record.--The record shall show the ruling on each finding, conclusion or exception presented. All decisions, including initial, recommended and tentative decisions, are a part of the record and shall include a statement of:

(1) findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law or discretion presented on the record; and

(2) the appropriate rule, order, sanction, relief or denial thereof.

SUBPART B

COMMISSION POWERS, DUTIES, PRACTICES AND PROCEDURES

Chapter

5. Powers and Duties

7. Procedure on Complaints

9. ~~Appeal and Review~~ JUDICIAL PROCEEDINGS

CHAPTER 5

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POWERS AND DUTIES

Sec.

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§ 501. General powers.

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

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

8 (C) COMPLIANCE.--EVERY PUBLIC UTILITY, ITS OFFICERS, AGENTS, <—
9 AND EMPLOYEES, AND EVERY OTHER PERSON OR CORPORATION SUBJECT TO
10 THE PROVISIONS OF THIS PART, AFFECTED BY OR SUBJECT TO ANY
11 REGULATIONS OR ORDERS OF THE COMMISSION OR OF ANY COURT, MADE,
12 ISSUED, OR ENTERED UNDER THE PROVISIONS OF THIS PART, SHALL
13 OBSERVE, OBEY, AND COMPLY WITH SUCH REGULATIONS OR ORDERS, AND
14 THE TERMS AND CONDITIONS THEREOF.

15 § 502. Enforcement proceedings by commission.

16 Whenever the commission shall be of opinion that any person
17 or corporation, including a municipal corporation, is violating,
18 or is about to violate, any provisions of this part; or has
19 done, or is about to do, any act, matter, or thing herein
20 prohibited or declared to be unlawful; or has failed, omitted,
21 neglected, or refused, or is about to fail, omit, neglect, or
22 refuse, to perform any duty enjoined upon it by this part, or
23 has failed, omitted, neglected or refused, or is about to fail,
24 omit, neglect, or refuse to obey any lawful requirement,
25 regulation or order made by the commission; or any final
26 judgment, order, or decree made by any court, then and in every
27 such case the commission may institute ~~in the Commonwealth~~ <—
28 ~~Court~~, injunction, mandamus or other appropriate legal
29 proceedings, to restrain such violations of the provisions of
30 this part, or of the regulations, or orders of the commission,

1 and to enforce obedience thereto. ~~and such court is hereby~~
2 ~~clothed with exclusive jurisdiction throughout this Commonwealth~~
3 ~~to hear and determine all such actions.~~ No injunction bond shall
4 be required to be filed by the commission. Such persons,
5 corporations, or municipal corporations as the court may deem
6 necessary or proper to be joined as parties, in order to make
7 its judgment, order or writ effective, may be joined as parties.
8 The final judgment in any such action or proceeding shall either
9 dismiss the action or proceeding, or direct that the writ of
10 mandamus or injunction issue or be made permanent as prayed for
11 in the petition, or in such modified or other form as will
12 afford appropriate relief.

13 § 503. Enforcement proceedings by Attorney General.

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

23 § 504. Reports by public utilities.

24 The commission may require any public utility to file
25 periodical reports, at such times, and in such form, and of such
26 content, as the commission may prescribe, and special reports
27 concerning any matter whatsoever about which the commission is
28 authorized to inquire, or to keep itself informed, or which it
29 is required to enforce. The commission may require any public
30 utility to file with it a copy of any report filed by such

1 public utility with any Federal department or regulatory body.
2 All reports shall be under oath or affirmation when required by
3 the commission.

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

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

19 § 506. Inspection of facilities and records.

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

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

6 § 507. Designation of statutory agent.

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

13 § 508. Contracts between public utilities and municipalities.

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

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

29 The commission shall have power and authority to vary,
30 reform, or revise, upon a fair, reasonable, and equitable basis,

1 any obligations, terms, or conditions of any contract heretofore
2 or hereafter entered into between any public utility and any
3 person, corporation, or municipal corporation, which embrace or
4 concern a public right, benefit, privilege, duty, or franchise,
5 or the grant thereof, or are otherwise affected or concerned
6 with the public interest and the general well-being of this
7 Commonwealth. Whenever the commission shall determine, after
8 reasonable notice and hearing, upon its own motion or upon
9 complaint, that any such obligations, terms, or conditions are
10 unjust, unreasonable, inequitable, or otherwise contrary or
11 adverse to the public interest and the general well-being of
12 this Commonwealth, the commission shall determine and prescribe,
13 by findings and order, the just, reasonable, and equitable
14 obligations, terms, and conditions of such contract. Such
15 contract, as modified by the order of the commission, shall
16 become effective 30 days after service of such order upon the
17 parties to such contract.

18 § 510. Regulation of manufacture, sale or lease of appliances.

19 It is unlawful for any public utility engaged in the
20 manufacture, sale, or lease of any appliance or equipment
21 offered by such public utility for sale to the public to:

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

26 (2) Apply to the purchase price or rental, or any part
27 thereof, of any appliance or equipment purchased by, or
28 leased to, a consumer of the service of the public utility,
29 any deposit or other moneys of the consumer in the possession
30 of the public utility. This restriction does not apply to any

1 claims of the public utility against such consumer when such
2 claims arise from damages to meters or other facilities used
3 to measure and ascertain the quantity of service rendered by
4 the public utility.

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

12 (4) Employ in the manufacture, sale, or lease of any
13 such appliance or equipment, the service of any officer or
14 employee engaged in rendering service to the public, unless
15 separate accounts as to the amount paid to such officer or
16 employee, while engaged in the manufacture, lease or sale of
17 such appliance or equipment, and whether any amount be
18 salary, bonus, commission, or expense are adopted, used, and
19 kept by the public utility.

20 § 511. Assessment for regulatory expenses upon public
21 utilities.

22 (a) Determination of assessment.--Before March 1 of each
23 year, the commission shall estimate its total expenditures in
24 the administration of this part for the fiscal year beginning
25 July of that year, which estimate shall not exceed three-tenths
26 of 1% of the total gross intrastate operating revenues of the
27 public utilities under its jurisdiction for the preceding
28 calendar year. Such estimate shall be submitted to the Governor,
29 and to the appropriation committees of the House and Senate
30 through their respective chairmen, for their respective

1 approvals of such estimate in the amount submitted or such
2 lesser amount as each of them may determine. Unless the
3 Governor, or either committee through its chairman, shall notify
4 the commission in writing of his or its action within 30 days
5 after such submission, the estimate as submitted shall be deemed
6 approved by him or by the committee. The least of the amounts so
7 approved by the three approving authorities shall be the final
8 estimate; and approval of such least amount shall constitute
9 compliance with section 604 of the act of April 9, 1929
10 (P.L.177, No.175), known as "The Administrative Code of 1929."
11 The commission or its designated representatives shall be
12 afforded an opportunity to appear before the Senate and House
13 Appropriations Committees regarding their estimates. The
14 commission shall subtract from the final estimate:

15 (1) the estimated fees to be collected pursuant to
16 section 317 (relating to fees for services rendered by
17 commission); and

18 (2) the estimated balance of the appropriation,
19 specified in section 512 (relating to disposition,
20 appropriation and disbursement of assessments and fees), to
21 be carried over into such fiscal year from the preceding one.
22 The remainder so determined, herein called the total assessment,
23 shall be allocated to, and paid by, such public utilities in the
24 manner prescribed in this part.

25 (b) Allocation of assessment.--On or before March 31 of each
26 year, every public utility shall file with the commission a
27 statement under oath showing its gross intrastate operating
28 revenues for the preceding calendar year. If any public utility
29 shall fail to file such statement on or before March 31, the
30 commission shall estimate such revenues, which estimate shall be

1 binding upon the public utility for the purposes of this
2 section. For each fiscal year, the allocation shall be made as
3 follows:

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

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

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

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

25 (c) Notice, hearing and payment.--The commission shall give
26 notice by registered or certified mail to each public utility of
27 the amount lawfully charged against it under the provisions of
28 this section, which amount shall be paid by the public utility
29 within 30 days of receipt of such notice, unless the commission
30 specifies on the notices sent to all public utilities an

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

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

1 such payment may, at any time within two years from the date of
2 payment, sue the Commonwealth in an action at law to recover the
3 amount paid, or any part thereof, upon the ground that the
4 assessment was excessive, erroneous, unlawful, or invalid, in
5 whole or in part, provided objections, as hereinbefore provided,
6 were filed with the commission, and payment of the assessment
7 was made under protest either as to all or part thereof. In any
8 action for recovery of any payments made under this section, the
9 claimant shall be entitled to raise every relevant issue of law,
10 but the findings of fact made by the commission, pursuant to
11 this section, shall be prima facie evidence of the facts therein
12 stated. Any records, books, data, documents, and memoranda
13 relating to the expenses of the commission shall be admissible
14 in evidence in any court and shall be prima facie evidence of
15 the truth of their contents. If it is finally determined in any
16 such action that all or any part of the assessment for which
17 payment was made under protest was excessive, erroneous,
18 unlawful, or invalid, the commission shall make a refund to the
19 claimant out of the appropriation specified in section 512 as
20 directed by the court.

21 (e) Certain provisions not applicable.--The provisions of
22 this part relating to the judicial review of orders and
23 determinations of the commission shall not be applicable to any
24 findings, determinations, or assessments made under this
25 section. THE PROCEDURE IN THIS SECTION PROVIDING FOR THE
26 DETERMINATION OF THE LAWFULNESS OF ASSESSMENTS AND THE RECOVERY
27 BACK OF PAYMENTS MADE PURSUANT TO SUCH ASSESSMENT SHALL BE
28 EXCLUSIVE OF ALL OTHER REMEDIES AND PROCEDURES.

29 (f) Intent of section.--It is the intent and purpose of this
30 section that each public utility subject to this part shall

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

14 (g) Saving provision.--This section does not affect or
15 repeal any of the provisions of the act of July 31, 1968
16 (P.L.769, No.240), known as the "Commonwealth Documents Law."
17 § 512. Disposition, appropriation and disbursement of
18 assessments and fees.

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

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

29 (c) Requisition of funds.--All requisitions upon such
30 appropriation shall be signed by the chairman and secretary of

1 the commission, or such deputies as they may designate in
2 writing to the State Treasurer, and shall be presented to the
3 State Treasurer and dealt with by him and the Treasury
4 Department in the manner prescribed by the act of April 9, 1929
5 (P.L.343, No.176), known as "The Fiscal Code."

6 § 513. Power of commission to require insurance.

7 The commission may, as to motor carriers, prescribe, by
8 regulation or order, such requirements as it may deem necessary
9 for the protection of persons or property of their patrons and
10 the public, including the filing of surety bonds, the carrying
11 of insurance, or the qualifications and conditions under which
12 such carriers may act as self-insurers with respect to such
13 matters. All motor carriers of passengers, whose current liquid
14 assets do not exceed their current liabilities by at least
15 \$100,000, shall cover each and every vehicle, transporting such
16 passengers, with a public liability insurance policy or a surety
17 bond issued by an insurance carrier or a bonding company
18 authorized to do business in this Commonwealth, in such amounts
19 as the commission may prescribe, but not less than \$5,000 for
20 one and \$10,000 for more than one person injured in any one
21 accident.

22 § 514. Public letting of contracts.

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

1 advertisement, notice, and public letting.

2 CHAPTER 7

3 PROCEDURE ON COMPLAINTS

4 Sec.

5 701. Complaints.

6 702. Service of complaints on parties.

7 703. Fixing of hearings.

8 § 701. Complaints.

9 The commission, or any person, corporation, or municipal
10 corporation having an interest in the subject matter, or any
11 public utility concerned, may complain in writing, setting forth
12 any act or thing done or omitted to be done by any public
13 utility in violation, or claimed violation, of any law which the
14 commission has jurisdiction to administer, or of any regulation
15 or order of the commission. Any public utility, or other person,
16 or corporation likewise may complain of any regulation or order
17 of the commission, which the complainant is or has been required
18 by the commission to observe or carry into effect. The
19 Commonwealth through the Attorney General may be a complainant
20 before the commission in any matter solely as an advocate for
21 the Commonwealth as a consumer of public utility services. The
22 commission may prescribe the form of complaints filed under this
23 section.

24 § 702. Service of complaints on parties.

25 Upon the filing of a complaint, the commission shall ~~serve~~ <—
26 CAUSE TO BE SERVED upon each party named in the complaint a copy <—
27 of the complaint and notice from the commission calling upon
28 such party to satisfy the complaint, or to answer the same in
29 writing, within such time as is specified by the commission in
30 the notice. Service in all hearings, investigations and

1 proceedings pending before the commission shall be made by
2 registered or certified mail.

3 § 703. Fixing of hearings.

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

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

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

29 (d) Informal hearings.--The commission may, in addition to
30 the hearings specially provided by this part, conduct such other

1 hearings as may be required in the administration of the powers
2 and duties conferred upon it by this part and by other acts
3 relating to public utilities. Reasonable notice of all such
4 hearings shall be given the persons interested therein.

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

23 (f) Rehearing.--After an order has been made by the
24 commission, any party to the proceedings may, within 15 days
25 after the service of the order, apply for a rehearing in respect
26 of any matters determined in such proceedings and specified in
27 the application for rehearing, and the commission may grant and
28 hold such rehearing on such matters. No application for a
29 rehearing shall in anywise operate as a supersedeas, or in any
30 manner stay or postpone the enforcement of any existing order,

1 except as the commission may, by order, direct. If the
2 application be granted, the commission may affirm, rescind, or
3 modify its original order.

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

12 CHAPTER 9

13 ~~APPEAL AND REVIEW~~ <—

14 JUDICIAL PROCEEDINGS <—

15 Sec.

16 901. Right to trial by jury.

17 902. COSTS ON REVIEW. <—

18 903. RESTRICTION ON INJUNCTIONS.

19 § 901. Right to trial by jury.

20 Nothing in this part shall be construed to deprive any party,
21 upon any judicial review of the proceedings and orders of the
22 commission, of the right to trial by jury of any issue of fact
23 raised thereby or therein, where such right is secured either by
24 the Constitution of Pennsylvania or the Constitution of the
25 United States, but in every such case such right of trial by
26 jury shall remain inviolate. When any judicial review is sought,
27 such right shall be deemed to be waived upon all issues, unless
28 expressly reserved in such manner as shall be prescribed by the
29 court.

30 § 902. COSTS ON REVIEW. <—

1 THE COSTS RESULTING FROM ANY REVIEW MAY NOT BE IMPOSED ON THE
2 COMMISSION EXCEPT IN CASES WHERE THE COMPLAINT OR PROCEEDING WAS
3 INSTITUTED BY THE COMMISSION.

4 § 903. RESTRICTION ON INJUNCTIONS.

5 NO INJUNCTION SHALL ISSUE MODIFYING, SUSPENDING, STAYING OR
6 ANNULING ANY ORDER OF THE COMMISSION, OR OF A COMMISSIONER,
7 EXCEPT IN A PROCEEDING QUESTIONING THE JURISDICTION OF THE
8 COMMISSION AND THEN ONLY AFTER CAUSE SHOWN UPON A HEARING.

9 SUBPART C

10 REGULATION OF PUBLIC UTILITIES GENERALLY

11 Chapter

12 11. Certificates of Public Convenience

13 13. Rates and Rate Making

14 15. Service and Facilities

15 17. Accounting and Budgetary Matters

16 19. Securities and Obligations

17 21. Relations with Affiliated Interests

18 CHAPTER 11

19 CERTIFICATES OF PUBLIC CONVENIENCE

20 Sec.

21 1101. Organization of public utilities and beginning of
22 service.

23 1102. Enumeration of acts requiring certificate.

24 1103. Procedure to obtain certificates of public convenience.

25 1104. Certain appropriations by right of eminent domain
26 prohibited.

27 § 1101. Organization of public utilities and beginning of
28 service.

29 Upon the application of any proposed public utility and the
30 approval of such application by the commission evidenced by its

1 certificate of public convenience first had and obtained, it
2 shall be lawful for any such proposed public utility to begin to
3 offer, render, furnish, or supply service within this
4 Commonwealth. The commission's certificate of public convenience
5 granted under the authority of this section shall include a
6 description of the nature of the service and of the territory in
7 which it may be offered, rendered, furnished or supplied.

8 § 1102. Enumeration of acts requiring certificate.

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

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

18 (i) A certificate of public convenience granted
19 under this part or under the former provisions of the act
20 of July 26, 1913 (P.L.1374, No.854), known as "The Public
21 Service Company Law," or the act of May 28, 1937
22 (P.L.1053, No.286), known as the "Public Utility Law."

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

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

30 (3) For any public utility or an affiliated interest of

1 a public utility as defined in section 2101 (relating to
2 definition of affiliated interest), except a common carrier
3 by railroad subject to the Interstate Commerce Act, to
4 acquire from, or to transfer to, any person or corporation,
5 including a municipal corporation, by any method or device
6 whatsoever, including the sale or transfer of stock and
7 including a consolidation, merger, sale or lease, the title
8 to, or the possession or use of, any tangible or intangible
9 property used or useful in the public service. Such approval
10 shall not be required if:

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

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

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

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

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

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

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

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

30 (5) For any municipal corporation to acquire, construct,

1 or begin to operate, any plant, equipment, or other
2 facilities for the rendering or furnishing to the public of
3 any public utility service beyond its corporate limits.

4 (b) Protection of railroad employees.--As a condition of its
5 approval of any transaction covered by this section and
6 involving those railroad carriers wholly located within this
7 Commonwealth subject to the provisions of this part, the
8 commission shall require a fair and equitable arrangement to
9 protect the interests of the railroad employees affected and the
10 commission shall include in its order of approval the terms and
11 conditions it deems fair and equitable for the protection of the
12 employees. The terms and conditions which the commission
13 prescribes shall provide that, during the period of four years
14 from the effective date of the order, the employees of the
15 railroad carrier affected by the order shall not be in a worse
16 position with respect to their employment except that any
17 protection afforded an employee shall not be required to
18 continue for a period longer than that during which the employee
19 was in the employ of the railroad carrier prior to the effective
20 date of the order. Notwithstanding any other provision of this
21 section, the commission may accept as fair and equitable an
22 agreement pertaining to the protection of the interests of the
23 employees entered into by the railroad carrier and the duly
24 authorized representatives of the employees.

25 § 1103. Procedure to obtain certificates of public
26 convenience.

27 (a) General rule.--Every application for a certificate of
28 public convenience shall be made to the commission in writing,
29 be verified by oath or affirmation, and be in such form, and
30 contain such information, as the commission may require by its

1 regulations. A certificate of public convenience shall be
2 granted by order of the commission, only if the commission shall
3 find or determine that the granting of such certificate is
4 necessary or proper for the service, accommodation, convenience,
5 or safety of the public. The commission, in granting such
6 certificate, may impose such conditions as it may deem to be
7 just and reasonable. In every case, the commission shall make a
8 finding or determination in writing, stating whether or not its
9 approval is granted. Any holder of a certificate of public
10 convenience, exercising the authority conferred by such
11 certificate, shall be deemed to have waived any and all
12 objections to the terms and conditions of such certificate.

13 (b) Investigations and hearings.--For the purpose of
14 enabling the commission to make such finding or determination,
15 it shall hold such hearings, which shall be public, and, before
16 or after hearing, it may make such inquiries, physical
17 examinations, valuations, and investigations, and may require
18 such plans, specifications, and estimates of cost, as it may
19 deem necessary or proper in enabling it to reach a finding or
20 determination.

21 § 1104. Certain appropriations by right of eminent domain
22 prohibited.

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

RATES AND RATE MAKING

Sec.

1301. Rates to be just and reasonable.

1302. Tariffs; filing and inspection.

1303. Adherence to tariffs.

1304. Discrimination in rates.

1305. Advance payment of rates; interest on deposits.

1306. Apportionment of joint rates.

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production.

1310. Temporary rates.

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1312. Refunds.

1313. Price upon resale of public utility services.

§ 1301. Rates to be just and reasonable.

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

§ 1302. Tariffs; filing and inspection.

Under such regulations as the commission may prescribe, every
public utility shall file with the commission, within such time
and in such form as the commission may designate, tariffs

1 showing all rates established by it and collected or enforced,
2 or to be collected or enforced, within the jurisdiction of the
3 commission. The tariffs of any public utility also subject to
4 the jurisdiction of a Federal regulatory body shall correspond,
5 so far as practicable, to the form of those prescribed by such
6 Federal regulatory body. Every public utility shall keep copies
7 of such tariffs open to public inspection under such rules and
8 regulations as the commission may prescribe.

9 § 1303. Adherence to tariffs.

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

21 § 1304. Discrimination in rates.

22 No public utility shall, as to rates, make or grant any
23 unreasonable preference or advantage to any person, corporation,
24 or municipal corporation, or subject any person, corporation, or
25 municipal corporation to any unreasonable prejudice or
26 disadvantage. No public utility shall establish or maintain any
27 unreasonable difference as to rates, either as between
28 localities or as between classes of service. Unless specifically
29 authorized by the commission, no public utility shall make,
30 demand, or receive any greater rate in the aggregate for the

1 transportation of passengers or property of the same class, or
2 for the transmission of any message or conversation for a
3 shorter than for a longer distance over the same line or route
4 in the same direction, the shorter being included within the
5 longer distance, or any greater rate as a through rate than the
6 aggregate of the intermediate rates. This section does not
7 prohibit the establishment of reasonable zone or group systems,
8 or classifications of rates or, in the case of common carriers,
9 the issuance of excursion, commutation, or other special tickets
10 at special rates, or the granting of nontransferable free
11 passes, or passes at a discount to any officer, employee, or
12 pensioner of such common carrier. No rate charged by a
13 municipality for any public utility service rendered or
14 furnished beyond its corporate limits shall be considered
15 unjustly discriminatory solely by reason of the fact that a
16 different rate is charged for a similar service within its
17 corporate limits.

18 § 1305. Advance payment of rates; interest on deposits.

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

28 § 1306. Apportionment of joint rates.

29 Where public utilities entitled to share in any joint rate
30 shall be unable to agree upon the division thereof, or shall

1 make any unjust or unreasonable division or apportionment
2 thereof, the commission may, after hearing, upon its own motion
3 or upon complaint, fix the proportion to which each public
4 utility shall be entitled.

5 § 1307. Sliding scale of rates; adjustments.

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

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

30 (c) Fuel cost adjustment.--In any method automatically

1 adjusting rates to reflect changes in fossil fuel cost under
2 this section, the fuel cost used in computing the adjustment
3 shall be limited, in the case of an electric utility, to the
4 cost of such fuel delivered to the utility at the generating
5 site at which it is to be consumed, and the cost of disposing of
6 solid waste from scrubbers or other devices designed so that the
7 consumption of Pennsylvania-mined coal at the generating site
8 would comply with the sulfur oxide emission standards prescribed
9 by the Commonwealth. The cost of fuel handling after such
10 delivery, or of waste disposal, other than as prescribed in this
11 section, shall be excluded from such computation. In any method
12 automatically adjusting rates to reflect changes in fuel cost
13 other than fossil fuel cost under this section, the fuel cost
14 used in computing the adjustment shall be limited, in the case
15 of an electric utility, to the cost of such fuel delivered to
16 the utility at the generating site at which it is to be consumed
17 after deducting therefrom the present salvage or reuse value of
18 such fuel, as shall be established by commission rule or order.

19 (d) Fuel cost adjustment audits.--The commission shall
20 conduct or cause to be conducted, at such times as it may order,
21 but at least annually, an audit of each public utility which, by
22 any method described in this section, automatically adjusts its
23 rates to reflect changes in its fuel costs, which audit shall
24 enable the commission to determine the propriety and correctness
25 of amounts billed and collected under this section. Whoever
26 performs the audit shall be a person knowledgeable in the subject
27 matter encompassed within the operation of the automatic
28 adjustment clause. The auditors report shall be in a form and
29 manner directed by the commission.

30 (e) Automatic adjustment reports and proceedings.--

1 (1) Within 30 days following the end of such 12-month
2 period as the commission shall designate, each public utility
3 using an automatic adjustment clause shall file with the
4 commission a statement which shall specify for such period:

5 (i) the total revenues received pursuant to the
6 automatic adjustment clause;

7 (ii) the total amount of that expense or class of
8 expenses incurred which is the basis of the automatic
9 adjustment clause; and

10 (iii) the difference between the amounts specified
11 by subparagraphs (i) and (ii).

12 Such report shall be a matter of public record and copies
13 thereof shall be made available to any person upon request to
14 the commission.

15 (2) Within 60 days following the submission of such
16 report by a public utility, the commission shall hold a
17 public hearing on the substance of the report and any matters
18 pertaining to the use by such public utility of such
19 automatic adjustment clause in the preceding period and MAY
20 INCLUDE the present and subsequent periods. <—

21 (3) Absent good reason being shown to the contrary, the
22 commission shall, within 60 days following such hearing, by
23 order direct each such public utility to, over an appropriate
24 12-month period, refund to its patrons an amount equal to
25 that by which its revenues received pursuant to such
26 automatic adjustment clause exceeded the amount of such
27 expense or class of expenses, or recover from its patrons an
28 amount equal to that by which such expense or class of
29 expenses exceeded the revenues received pursuant to such
30 automatic adjustment clause.

1 (4) For the purpose of this subsection, where a 12-month
2 report period and 12-month refund or recovery period shall
3 have been previously established or designated, nothing in
4 this section shall impair the continued use of such
5 previously established or designated periods nor shall
6 anything in this section prevent the commission from amending
7 at any time any method used by any utility in automatically
8 adjusting its rates, so as to provide the commission more
9 adequate supervision of the administration by a utility of
10 such method and to decrease the likelihood of collection by a
11 utility, in subsequent periods, of amounts greater or less
12 than that to which it is entitled, or, in the event that such
13 deficiency or surplus in ~~connected~~ COLLECTED amounts is <—
14 found, more prompt readjustment thereof.

15 § 1308. Voluntary changes in rates.

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

29 (b) Hearing and suspension of rate change.--Whenever there
30 is filed with the commission by any public utility any tariff

1 stating a new rate, the commission may, either upon complaint or
2 upon its own motion, upon reasonable notice, enter upon a
3 hearing concerning the lawfulness of such rate, and pending such
4 hearing and the decision thereon, the commission, upon filing
5 with such tariff and delivering to the public utility affected
6 thereby a statement in writing of its reasons therefor, may, at
7 any time before it becomes effective, suspend the operation of
8 such rate for a period not longer than six months from the time
9 such rate would otherwise become effective, and an additional
10 period of not more than three months pending such decision. The
11 rate in force when the tariff stating the new rate was filed
12 shall continue in force during the period of suspension, unless
13 the commission shall establish a temporary rate as authorized in
14 section 1310 (relating to temporary rates). The commission shall
15 consider the effect of such suspension in finally determining
16 and prescribing the rates to be thereafter charged and collected
17 by such public utility. This subsection ~~does~~ SHALL not apply to <—
18 any tariff stating a new rate which constitutes a general rate
19 increase as defined in subsection (d).

20 (c) Determination.--If, after such hearing, the commission
21 finds any such rate to be unjust or unreasonable, or in anywise
22 in violation of law, the commission shall determine the just and
23 reasonable rate to be charged or applied by the public utility
24 for the service in question, and shall fix the same by order to
25 be served upon the public utility AND SUCH RATE SHALL THEREAFTER <—
26 BE OBSERVED UNTIL CHANGED AS PROVIDED BY THIS PART.

27 (d) General rate increases.--Whenever there is filed with
28 the commission by any public utility described in paragraph
29 (1)(i),(ii),(vi) or (vii) of the definition of "public utility"
30 in section 102 (relating to definitions), and such other public

1 utility as the commission may by rule or regulation direct, any
2 tariff stating a new rate which constitutes a general rate
3 increase, the commission shall promptly enter into an
4 investigation and analysis of said tariff filing and may by
5 order setting forth its reasons therefor, upon complaint or upon
6 its own motion, upon reasonable notice, enter upon a hearing
7 concerning the lawfulness of such rate, and the commission may,
8 at any time by vote of a majority of the members of the
9 commission serving in accordance with law, permit such tariff to
10 become effective, except that absent such order such tariff
11 shall be suspended for a period not to exceed seven months from
12 the time such rate would otherwise become effective. Before the
13 expiration of such seven-month period, a majority of the members
14 of the commission serving in accordance with law, acting
15 unanimously, shall make a final decision and order, setting
16 forth its reasons therefor, granting or denying, in whole or in
17 part, the general rate increase requested. If, however, such an
18 order has not been made at the expiration of such seven-month
19 period, the proposed general rate increase shall go into effect
20 at the end of such period, but the commission may by order
21 require the interested public utility to refund, in accordance
22 with section 1312 (relating to refunds), to the persons in whose
23 behalf such amounts were paid, such portion of such increased
24 rates as by its decision shall be found not justified, plus
25 interest, which shall be the average rate of interest specified
26 for residential mortgage lending by the Secretary of Banking in
27 accordance with the act of January 30, 1974 (P.L.13, No.6),
28 referred to as the Loan Interest and Protection Law, during the
29 period or periods for which the commission orders refunds. The
30 rate in force when the tariff stating such new rate was filed

1 shall continue in force during the period of suspension unless
2 the commission shall grant extraordinary rate relief as
3 prescribed in subsection (e). The commission shall consider the
4 effect of such suspension in finally determining and prescribing
5 the rates to be thereafter charged and collected by such public
6 utility, except that the commission shall have no authority to
7 prescribe, determine or fix, at any time during the pendency of
8 a general rate increase proceeding or prior to a final
9 determination of a general rate increase request, temporary
10 rates as provided in section 1310, which rates may provide
11 retroactive increases through recoupment. As used in this part
12 general rate increase means a tariff filing which affects more
13 than 5% of the customers and amounts to in excess of 3% of the
14 total gross annual intrastate operating revenues of the public
15 utility. If the public utility furnishes two or more types of
16 service, the foregoing percentages shall be determined only on
17 the basis of the customers receiving, and the revenues derived
18 from, the type of service to which the tariff filing pertains.

19 (e) Extraordinary rate relief.--Upon petition to the
20 commission at the time of filing of a rate request or at any
21 time during the pendency of proceedings on such rate request,
22 any public utility may seek extraordinary rate relief of such
23 portion of the total rate relief requested as can be shown to be
24 immediately necessary for the maintenance of financial stability
25 in order to enable the utility to continue providing normal
26 services to its customers, avoid reductions in its normal
27 maintenance programs ~~and~~, avoid substantially reducing its <—
28 employment, and which will provide no more than the rate of
29 return on the utility's common equity established by the
30 commission in consideration of the utility's preceding rate

1 filing, except that no utility shall file, either with a request <—
2 for a general rate increase or at any time during the pendency
3 of such a request, more than one petition under this subsection
4 pertaining to rates for a particular type of service, nor any
5 supplement or amendment thereto, except when permitted to do so
6 by order of the commission. Any public utility requesting
7 extraordinary rate relief shall file with the petition
8 sufficient additional testimony and exhibits which will permit
9 the commission to make appropriate findings on the petition. The
10 public utility shall give notice of the petition in the same
11 manner as its filing upon which this petition is based. The
12 commission shall within 30 days from the date of the filing of a
13 petition for extraordinary rate relief, and after hearing for
14 the purpose of cross-examination of the testimony and exhibits
15 of the public utility, and the presentation of such other
16 evidentiary testimony as the commission may by rule prescribe,
17 by order setting forth its reasons therefor, grant or deny, in
18 whole or in part, the extraordinary relief requested. Absent
19 such order, the petition shall be deemed to have been denied.
20 Rates established pursuant to extraordinary rate relief shall
21 not be deemed to be temporary rates within the meaning of that
22 term as it is used in section 1310.

23 § 1309. Rates fixed on complaint; investigation of costs of
24 production.

25 Whenever the commission, after reasonable notice and hearing,
26 upon its own motion or upon complaint, finds that the existing
27 rates of any public utility for any service are unjust,
28 unreasonable, or in anywise in violation of any provision of
29 law, the commission shall determine the just and reasonable
30 rates, including maximum or minimum rates, to be thereafter

1 observed and in force, and shall fix the same by order to be
2 served upon the public utility, and such rates shall constitute
3 the legal rates of the public utility until changed as provided
4 in this part. Whenever a public utility does not itself produce
5 or generate that which it distributes, transmits, or furnishes
6 to the public for compensation, but obtains the same from
7 another source, the commission shall have the power and
8 authority to investigate the cost of such production or
9 generation in any investigation of the reasonableness of the
10 rates of such public utility.

11 § 1310. Temporary rates.

12 (a) General rule.--The commission may, in any proceeding
13 involving the rates of a public utility, except a proceeding
14 involving a general rate increase, brought either upon its own
15 motion or upon complaint, after reasonable notice and hearing,
16 if it be of opinion that the public interest so requires,
17 immediately fix, determine, and prescribe temporary rates to be
18 charged by such public utility, pending the final determination
19 of such rate proceeding. Such temporary rates, so fixed,
20 determined, and prescribed, shall be sufficient to provide a
21 return of not less than 5% upon the original cost, less accrued
22 depreciation, of the physical property, when first devoted to
23 public use, of such public utility, used and useful in the
24 public service, and if the duly verified reports of such public
25 utility to the commission do not show such original cost, less
26 accrued depreciation, of such property, the commission may
27 estimate such cost less depreciation and fix, determine, and
28 prescribe rates as hereinbefore provided.

29 (b) Exception where records unavailable.--If any public
30 utility does not have continuing property records, kept in the

1 manner prescribed by the commission under the provisions of
2 section 1702 (relating to continuing property records), then the
3 commission, after reasonable notice and hearing, may establish
4 temporary rates which shall be sufficient to provide a return of
5 not less than an amount equal to the operating income for such
6 prior calendar ~~or~~, fiscal OR OTHER year as the commission may <—
7 deem proper, to be determined on the basis of data appearing in
8 the annual report of such public utility to the commission for
9 such prior year as the commission may deem proper, plus or minus
10 such return as the commission may prescribe from time to time
11 upon such net changes of the physical property as are reported
12 to and approved for rate-making purposes by the commission. In
13 determining the net changes of the physical property, the
14 commission may, in its discretion, deduct from gross additions
15 to such physical property the amount charged to operating
16 expenses for depreciation or, in lieu thereof, it may determine
17 such net changes by deducting retirements from the gross
18 additions. The commission, in determining the basis for
19 temporary rates, may make such adjustments in the annual report
20 data as may, in the judgment of the commission, be necessary and
21 proper.

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

30 (d) Excessive rates.--Whenever the commission, upon

1 examination of any annual or other report, or of any papers,
2 records, books, or documents, or of the property of any public
3 utility, shall be of opinion that any rates of such public
4 utility are producing a return in excess of a fair return upon
5 the fair value of the property of such public utility, used and
6 useful in its public service, the commission may, by order,
7 prescribe for a trial period of at least six months, which trial
8 period may be extended for one additional period of six months,
9 such temporary rates to be observed by such public utility as,
10 in the opinion of the commission, will produce a fair return
11 upon such fair value, and the rates so prescribed shall become
12 effective upon the date specified in the order of the
13 commission. Such rates, so prescribed, shall become permanent at
14 the end of such trial period, or extension thereof, unless at
15 any time during such trial period, or extension thereof, the
16 public utility involved shall complain to the commission that
17 the rates so prescribed are unjust or unreasonable. Upon such
18 complaint, the commission, after hearing, shall determine the
19 issues involved, and pending final determination the rates so
20 prescribed shall remain in effect.

21 (e) Effect and adjustment of rates.--Temporary rates so
22 fixed, determined, and prescribed under this section shall be
23 effective until the final determination of the rate proceeding,
24 unless terminated sooner by the commission. In every proceeding
25 in which temporary rates are fixed, determined, and prescribed
26 under this section, the commission shall consider the effect of
27 such rates in fixing, determining, and prescribing rates to be
28 thereafter demanded or received by such public utility on final
29 determination of the rate proceeding.

30 § 1311. Valuation of property of a public utility.

1 The commission may, after reasonable notice and hearing,
2 ascertain and fix the fair value of the whole or any part of the
3 property of any public utility, insofar as the same is material
4 to the exercise of the jurisdiction of the commission, and may
5 make revaluations from time to time and ascertain the fair value
6 of all new construction, extensions, and additions to the
7 property of any public utility. When any public utility
8 furnishes more than one of the different types of utility
9 service, the commission shall segregate the property used and
10 useful in furnishing each type of such service, and shall not
11 consider the property of such public utility as a unit in
12 determining the value of the property of such public utility for
13 the purpose of fixing rates. In fixing any rate of a public
14 utility engaged exclusively as a common carrier by motor
15 vehicle, the commission may, in lieu of other standards
16 established by law, fix the fair return by relating the fair and
17 reasonable operating expenses, depreciation, taxes and other
18 costs of furnishing service to operating revenues.

19 § 1312. Refunds.

20 (a) General rule.--If, in any proceeding involving rates,
21 the commission shall determine that any rate received by a
22 public utility was unjust or unreasonable, or was in violation
23 of any regulation or order of the commission, or was in excess
24 of the applicable rate contained in an existing and effective
25 tariff of such public utility, the commission shall have the
26 power and authority to make an order requiring the public
27 utility to refund the amount of any excess paid by any patron,
28 in consequence of such unlawful collection, within two years
29 prior to the date of the filing of the complaint, together with
30 interest at the legal rate from the date of each such excessive

1 payment. In making a determination under this section, the
2 commission need not find that the rate complained of was
3 extortionate or oppressive. Any order of the commission awarding
4 a refund shall be made for and on behalf of all patrons subject
5 to the same rate of the public utility. The commission shall
6 state in any refund order the exact amount to be paid, the
7 reasonable time within which payment shall be made, and shall
8 make findings upon pertinent questions of fact.

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

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

9 § 1313. Price upon resale of public utility services.

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

18 CHAPTER 15

19 SERVICE AND FACILITIES

20 Sec.

21 1501. Character of service and facilities.

22 1502. Discrimination in service.

23 1503. Discontinuance of service.

24 1504. Standards of service and facilities.

25 1505. Proper service and facilities established on complaint.

26 1506. Copies of service contracts, etc., to be filed with
27 commission.

28 1507. Testing of appliances for measurement of service.

29 1508. Reports of accidents.

30 1509. Billing procedures.

1 § 1501. Character of service and facilities.

2 Every public utility shall furnish and maintain adequate,
3 efficient, safe, and reasonable service and facilities, and
4 shall make all such repairs, changes, alterations,
5 substitutions, extensions, and improvements in or to such
6 service and facilities as shall be necessary or proper for the
7 accommodation, convenience, and safety of its patrons,
8 employees, and the public. Such service also shall be reasonably
9 continuous and without unreasonable interruptions or delay. Such
10 service and facilities shall be in conformity with the
11 regulations and orders of the commission. Subject to the
12 provisions of this part and the regulations or orders of the
13 commission, every public utility may have reasonable rules and
14 regulations governing the conditions under which it shall be
15 required to render service. Any public utility service being
16 furnished or rendered by a municipal corporation beyond its
17 corporate limits shall be subject to regulation and control by
18 the commission as to service and extensions, with the same force
19 and in like manner as if such service were rendered by a public
20 utility. The commission shall have sole and exclusive
21 jurisdiction to promulgate rules and regulations for the
22 allocation of natural or artificial gas supply by a public
23 utility.

24 § 1502. Discrimination in service.

25 No public utility shall, as to service, make or grant any
26 unreasonable preference or advantage to any person, corporation,
27 or municipal corporation, or subject any person, corporation, or
28 municipal corporation to any unreasonable prejudice or
29 disadvantage. No public utility shall establish or maintain any
30 unreasonable difference as to service, either as between

1 localities or as between classes of service, but this section
2 does not prohibit the establishment of reasonable
3 classifications of service.

4 § 1503. Discontinuance of service.

5 (a) Days discontinuance prohibited.--Except when required to
6 prevent or alleviate an emergency as defined by the commission,
7 ~~and~~ except in the case of danger to life or property, no public <—
8 utility, as defined in paragraph (1)(i),(ii),(v) or (vii) of the
9 definition of "public utility" in section 102 (relating to
10 definitions), shall discontinue, and the commission shall not
11 authorize such a public utility to discontinue, except upon
12 request of the customer, for nonpayment of charges or for any
13 other reason, the rendering of service during the following
14 periods:

15 (1) On Friday, Saturday or Sunday.

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

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

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

26 (b) Personal contact before service discontinued.--Except
27 when required to prevent or alleviate an emergency as defined by
28 the commission,~~and~~ OR EXCEPT in the case of danger to life or <—
29 property, no public utility referred to in subsection (a) shall
30 discontinue, and the commission shall not authorize such a

1 public utility to discontinue, except upon request of a
2 customer, for nonpayment of charges or for any other reason, the
3 rendering of service without personally contacting the customer
4 at least three days prior to such discontinuance, in addition to
5 any written notice of discontinuance of service. Personal
6 contact shall mean:

7 (1) ~~Contacting~~ CONTACTING the customer by means other <—
8 than writing, OR <—

9 (2) ~~Contacting~~ CONTACTING another person whom the <—
10 customer has designated to receive a copy of any notice of
11 disconnection, OR <—

12 (3) ~~If~~ IF the customer has not made such designation, <—
13 contacting a community interest group or other entity,
14 including local police departments, which have previously
15 agreed to receive a copy of the notice of disconnection and
16 to attempt to contact the customer, OR <—

17 (4) If the customer has not made such designation and no
18 such community interest group or other entity has previously
19 agreed to receive a copy of the notice of disconnection,
20 contacting the commission or such other local government unit
21 as the commission shall, by rule or regulation, designate.

22 § 1504. Standards of service and facilities.

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

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

30 (2) Prescribe adequate and reasonable standards for the

1 measurement of quantity, quality, pressure, initial voltage
2 or other condition pertaining to the supply of the service of
3 any and all public utilities.

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

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

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

12 § 1505. Proper service and facilities established on complaint.

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

25 § 1506. Copies of service contracts, etc., to be filed with
26 commission.

27 Any public utility shall, when required by the commission,
28 file with the commission verified copies of any and all
29 contracts, writings, agreements, leases, arrangements, or other
30 engagements, in relation to its public service, entered into by

1 such public utility with any person, corporation, State
2 Government, or the Federal Government, or any branch or
3 subdivision thereof, or any other public utility.

4 § 1507. Testing of appliances for measurement of service.

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

20 § 1508. Reports of accidents.

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

1 § 1509. Billing procedures.

2 All bills rendered by a public utility as defined in
3 paragraph (1)(i),(ii),(vi) or (vii) of the definition of "public
4 utility" in section 102 (relating to definitions) to its service
5 customers, except bills for installation charges, shall allow at
6 least 15 days for nonresidential customers and 20 days for
7 residential customers from the date of transmittal of the bill
8 for payment without incurring any late payment penalty charges
9 therefor. All customers shall be permitted to receive bills
10 monthly and shall be notified of their right thereto. All bills
11 shall be itemized to separately show amounts for basic service,
12 Federal excise taxes, applicable State sales and gross receipts
13 taxes, to the extent practicable, fuel adjustment charge, if
14 any, State tax adjustment charge or such other similar
15 components of the total bill as the commission may order. Any
16 electric or gas public utility billing customers on a bimonthly
17 or quarterly basis and rendering interim statements or bills
18 each month shall include in such interim statement or bill an
19 amount for the fuel adjustment charge based upon one-half of the
20 total expected bimonthly kilowatt hour or cubic foot billing or
21 one-third of the total expected quarterly billing and using the
22 fuel adjustment charge rate applicable in the month of the
23 interim statement or bill. At the time of preparing the
24 bimonthly or quarterly bill, an appropriate adjustment shall be
25 made in the total fuel adjustment charge billing for the period.
26 Any public utility rendering bills on a bimonthly basis or
27 quarterly basis shall calculate the fuel adjustment charge per
28 kilowatt hour or cubic foot for the entire period as the
29 weighted average of the two monthly rates or the three monthly
30 rates whichever is applicable.

CHAPTER 17

ACCOUNTING AND BUDGETARY MATTERS

Sec.

1701. Mandatory systems of accounts.

1702. Continuing property records.

1703. Depreciation accounts; reports.

1704. Records and accounts to be kept in Commonwealth.

1705. Budgets of public utilities.

1706. Applicability to municipal corporations.

§ 1701. Mandatory systems of accounts.

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

§ 1702. Continuing property records.

The commission may require any public utility to establish, provide, and maintain as a part of its system of accounts, continuing property records, including a list or inventory of all the units of tangible property used or useful in the public service, showing the current location of such property units by

1 definite reference to the specific land parcels upon which such
2 units are located or stored. The commission may require any
3 public utility to keep accounts and records in such manner as to
4 show, currently, the original cost of such property when first
5 devoted to the public service, and the reserve accumulated to
6 provide for the depreciation thereof.

7 § 1703. Depreciation accounts; reports.

8 (a) Accounts.--Every public utility shall carry on its books
9 or records of account, proper and reasonable sums representing
10 the annual depreciation on its property used or useful in the
11 public service, which sums shall be based upon the average
12 estimated life of each of the several units or classes of
13 depreciable property. The commission, by appropriate order,
14 after hearing, shall, except where found to be inappropriate,
15 establish for each class of public utilities, the units of
16 depreciable property, the loss upon the retirement of which
17 shall be charged to the depreciation reserve.

18 (b) Statements.--Every public utility shall file with the
19 commission, at such times and in such form as the commission may
20 prescribe, statements setting forth the details supporting its
21 computation of annual depreciation, as recorded on the books or
22 records of accounts of the public utility. If the commission,
23 upon review of such statements, is of the opinion that the
24 amount of annual depreciation so recorded by any public utility
25 is not reasonable and proper, it may, after hearing, require
26 that provision be made for annual depreciation in such sums as
27 may be found by it to be reasonable and proper. In making its
28 findings, the commission shall give consideration to the
29 experience of the public utility, and the predecessors of the
30 public utility in accumulating depreciation reserves, the

1 retirements actually made, and such other factors as may be
2 deemed relevant.

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

10 § 1704. Records and accounts to be kept in Commonwealth.

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

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

26 § 1705. Budgets of public utilities.

27 (a) Proposed budgets; adjustments; determination.--The
28 commission may, by regulation, require any class of public
29 utilities, except common carriers, to file proposed budgets with
30 the commission on or before the first day of each budgetary

1 period, showing the amount of money which each public utility
2 within such class, will in its judgment, expend during the
3 budgetary period for payment of salaries of executive officers,
4 donations, advertising, lobbying expenses, entertainment,
5 political contributions, expenditures, and major contracts for
6 the sale or purchase of facilities, and all items covering or
7 contemplating any payment to any affiliated interest for advice,
8 auditing, associating, sponsoring, engineering, managing,
9 operating, financing, legal, or other services. Adjustments or
10 additions to any such budget may be made from time to time by
11 filing supplementary budgets with the commission. When any such
12 budget or supplemental budget has been filed, the commission may
13 examine into and investigate the same to determine whether any
14 or all of the contemplated expenditures are unreasonable or
15 contrary to the public interest and if after reasonable notice
16 and hearing, it shall so determine, it shall make its findings
17 and order in writing rejecting the same or any part thereof.

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

30 (c) Use of budgets.--The filing of any budget, its

1 examination, investigation, or determination by the commission,
2 under this section, shall not bar or estop the commission from
3 determining, in any rate valuation or other proceeding, whether
4 any or all of the expenditures made under any budget or
5 supplemental budget are reasonable or commensurate with the
6 service or facilities received.

7 § 1706. Applicability to municipal corporations.

8 The provisions of sections 505 (relating to duty to furnish
9 information to commission; cooperation in valuing property), 506
10 (relating to inspection of facilities and records), 1701
11 (relating to mandatory systems of accounts) and 1703 (relating
12 to depreciation accounts; reports), shall apply to any municipal
13 corporation rendering or furnishing to the public any public
14 utility service.

15 CHAPTER 19

16 SECURITIES AND OBLIGATIONS

17 Sec.

18 1901. Registration of securities to be issued or assumed.

19 1902. Contents of securities certificates.

20 1903. Registration or rejection of securities certificates.

21 1904. Unauthorized securities may be declared void.

22 § 1901. Registration of securities to be issued or assumed.

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

28 (b) Issuance of securities defined.--Issuance of securities
29 includes any act of a public utility executing, causing to be
30 authenticated, delivering or making any change or extension in

1 any term, condition or date of, any stock certificate, or other
2 evidence of equitable interest in itself or any bond, note,
3 trust certificate or other evidence of indebtedness of itself.
4 Issuance of securities does not include the execution,
5 authentication or delivery of the following:

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

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

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

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

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

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

30 (c) Assumption of securities defined.--Assumption of

1 securities includes any act of a public utility assuming primary
2 or contingent liability for the payment of any dividends upon
3 any stocks or of any principal or interest of any indebtedness,
4 created or incurred by any other person or corporation.

5 Assumption of securities does not include the acquisition of all
6 property of the issuing company by the assuming company as
7 provided in section 1102(3) (relating to enumeration of acts
8 requiring certificate) if the approval of the commission is
9 obtained.

10 § 1902. Contents of securities certificates.

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

21 § 1903. Registration or rejection of securities certificates.

22 (a) General rule.--Upon the submission or completion of any
23 securities certificate, as provided in this part, the commission
24 shall register the same if it shall find that the issuance or
25 assumption of securities in the amount, of the character, and
26 for the purpose therein proposed, is necessary or proper for the
27 present and probable future capital needs of the public utility
28 filing such securities certificate; otherwise it shall reject
29 the securities certificate. The commission may consider the
30 relation which the amount of each class of securities issued by

1 such public utility bears to the amount of other such classes,
2 the nature of the business of such public utility, its credit
3 and prospects, and other relevant matters. If, at the end of 30
4 days after the filing of a securities certificate, no order of
5 rejection has been entered, such certificate shall be deemed, in
6 fact and law, to have been registered. The commission may, by
7 written order, giving reasons therefor, extend the 30-day
8 consideration period.

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

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

28 (d) Amendment of rejected certificate.--At any time within
29 30 days after the commission shall have rejected a securities
30 certificate, the public utility submitting such securities

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

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

18 § 1904. Unauthorized securities may be declared void.

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

27 CHAPTER 21

28 RELATIONS WITH AFFILIATED INTERESTS

29 Sec.

30 2101. Definition of affiliated interest.

1 2102. Approval of contracts with affiliated interest.
2 2103. Continuing supervision and jurisdiction over contracts.
3 2104. Contracts to be in writing; cost data.
4 2105. Contracts in violation of part void.
5 2106. Effect on rates.
6 2107. Federal regulatory agencies.

7 § 2101. Definition of affiliated interest.

8 (a) General rule.--As used in this part "affiliated
9 interest" with a public utility means and includes the
10 following:

11 (1) Every corporation and person owning or holding
12 directly or indirectly 5% or more of the voting securities of
13 such public utility.

14 (2) Every corporation and person in any chain of
15 successive ownership of 5% or more of voting securities.

16 (3) Every corporation 5% or more of whose voting
17 securities are owned by any person or corporation owning 5%
18 or more of the voting securities of such public utility or by
19 any person or corporation in any such chain of successive
20 ownership of 5% or more of voting securities.

21 (4) Every person who is an officer or director of such
22 public utility or of any corporation in any chain of
23 successive ownership of 5% or more of voting securities.

24 (5) Every corporation operating a public utility or a
25 servicing organization for furnishing supervisory,
26 construction, engineering, accounting, legal and similar
27 services to utilities, which has one or more officers or one
28 or more directors in common with such public utility, to
29 every other corporation which has directors in common with
30 such public utility where the number of such directors is

1 more than one-third of the total number of the utility's
2 directors.

3 (6) Every corporation or person which the commission may
4 determine as a matter of fact after investigation and hearing
5 is actually exercising any substantial influence over the
6 policies and actions of such public utility even though such
7 influence is not based upon stockholding, stockholders,
8 directors or officers to the extent specified in this
9 section. As used in this part substantial influence means any
10 corporation or person which or who stands in such
11 relationship to the public utility that there is an absence
12 of free and equal bargaining power between it or him and the
13 public utility.

14 (7) Every person or corporation who or which the
15 commission may determine as a matter of fact after
16 investigation and hearing is actually exercising such
17 substantial influence over the policies and actions of such
18 public utility in conjunction with one or more other
19 corporations or persons, or both, with which or whom they are
20 related by ownership or blood relationship, or both, or by
21 action in concert that together they are affiliated with such
22 public utility within the meaning of this section even though
23 no one of them alone is so affiliated.

24 (b) Construction of section.--The term "person" shall not be
25 construed to exclude trustees, lessees, holders of beneficial
26 equitable interest, voluntary associations, receivers and
27 partnerships.

28 § 2102. Approval of contracts with affiliated interests.

29 (a) General rule.--No contract or arrangement providing for
30 the furnishing of management, supervisory, construction,

1 engineering, accounting, legal, financial, or similar services,
2 and no contract or arrangement for the purchase, sale, lease, or
3 exchange of any property, right, or thing or for the furnishing
4 of any service, property, right or thing other than those above
5 enumerated, made or entered into after the effective date of
6 this section between a public utility and any affiliated
7 interest shall be valid or effective unless and until such
8 contract or arrangement has received the written approval of the
9 commission. If such contract is oral, a complete statement of
10 the terms and conditions thereof shall be filed with the
11 commission and subject to its approval.

12 (b) Filing and action on contract.--It shall be the duty of
13 every public utility to file with the commission a verified copy
14 of any such contract or arrangement, or a verified summary as
15 described in subsection (a) of any such unwritten contract or
16 arrangement. All such contracts and arrangements, whether
17 written or unwritten, entered into prior to the effective date
18 of this section and required to be on file with the commission
19 by prior act and in full force and effect at the effective date
20 of this section shall be subject to the provisions of the
21 sections regarding affiliated interests. The commission shall
22 approve such contract or arrangement made or entered into after
23 the effective date of this section only if it shall clearly
24 appear and be established upon investigation that it is
25 reasonable and consistent with the public interest. If at the
26 end of 30 days after the filing of a contract or arrangement, no
27 order of rejection has been entered, such contract or
28 arrangement, whether written or unwritten, shall be deemed, in
29 fact and law, to have been approved. The commission may, by
30 written order, giving reasons therefor, extend the 30-day

1 consideration period. No such contract or arrangement shall
2 receive the commission's approval unless satisfactory proof is
3 submitted to the commission of the cost to the affiliated
4 interest of rendering the services or of furnishing the property
5 or service described herein to the public utility. No proof
6 shall be satisfactory within the meaning of the foregoing
7 sentence unless it includes the original (or verified copies) of
8 the relevant cost records and other relevant accounts of the
9 affiliated interest, or such abstract thereof or summary taken
10 therefrom as the commission may deem adequate, properly
11 identified and duly authenticated. The commission may, where
12 reasonable, approve or disapprove such contracts or arrangements
13 without the submission of such cost records or accounts.

14 (c) Disallowance of excessive amounts.--If the commission
15 shall determine that the amounts paid or payable under a
16 contract or arrangement filed in accordance with this section
17 are in excess of the reasonable price for furnishing the
18 services provided for in the contract, or that such services are
19 not reasonably necessary and proper, it shall disallow such
20 amounts, insofar as found excessive, in any proceeding involving
21 the rates or practices of the public utility. In any proceeding
22 involving such amounts, the burden of proof to show that such
23 amounts are not in excess of the reasonable price for furnishing
24 such services, and that such services are reasonable and proper,
25 shall be on the public utility.

26 (d) Exceptions.--The provisions requiring the written
27 approval of the commission shall not apply to transactions with
28 affiliated interests of any common carrier by railroad or motor
29 vehicle that is subject to the Interstate Commerce Act unless
30 required by order of the commission, nor where the amount of

1 consideration involved is not in excess of \$10,000 or 5% of the
2 par value of outstanding common stock, whichever is smaller.
3 Regularly recurring payments under a general or continuing
4 arrangement which aggregate a greater annual amount shall not be
5 broken down into a series of transactions to come within this
6 exemption. Where the commission has given its approval generally
7 as to a class or category of transactions, the commission may
8 apply such approval to all subsidiary or related transactions.
9 Such transactions shall be valid or effective without commission
10 approval under this section. However, in any proceeding
11 involving the rates or practices of the public utility, the
12 commission may disallow any payment or compensation made
13 pursuant to such transaction unless the public utility shall
14 establish the reasonableness of such payment or compensation.

15 § 2103. Continuing supervision and jurisdiction over contracts.

16 The commission shall have continuing supervisory control over
17 the terms and conditions of contracts and arrangements as
18 described in section 2102 (relating to approval of contracts
19 with affiliated interests) so far as necessary to protect and
20 promote the public interest. The commission shall have the same
21 jurisdiction over the modifications or amendment of contracts or
22 arrangements as it has over such original contracts and
23 arrangements. The fact that the commission shall have approved
24 entry into such contracts or arrangements shall not preclude
25 disallowance or disapproval of payments made pursuant thereto,
26 if upon actual experience under such contract or arrangement it
27 appears that the payments provided for or made were or are
28 unreasonable.

29 § 2104. Contracts to be in writing; cost data.

30 The commission may, by regulation or order, require any

1 contract with an affiliated interest to be in writing. The
2 commission may also, by regulation or order, require that any
3 contract with an affiliated interest shall contain a provision
4 whereby the affiliated interest shall agree to furnish to the
5 public utility, at the time of billing such public utility for
6 any service, property, security, right, or thing, under such
7 contract, a detailed statement of the cost to the affiliated
8 interest of such service, property, security, right, or thing.
9 § 2105. Contracts in violation of part void.

10 Every contract with an affiliated interest, made effective or
11 modified in violation of any provision of this part, or of any
12 regulation or order of the commission made under this part,
13 shall be void; and any purchase, sale, payment, lease, loan, or
14 exchange of any service, property, money, security, right, or
15 thing under such contract, or under any contract with an
16 affiliated interest, the terms of which shall have been breached
17 by the affiliated interest, shall be unlawful.

18 § 2106. Effect on rates.

19 In any proceeding, upon the commission's own motion, or upon
20 application or complaint, involving rates or practices of any
21 public utility, the commission may disallow, in whole or in
22 part, any payment or compensation to an affiliated interest for
23 any services rendered or property or service furnished, or any
24 property, right, or thing received by such public utility, or
25 donation given or received, under existing contracts or
26 arrangements with such affiliated interest unless such public
27 utility shall establish the reasonableness thereof. In such
28 proceeding no payment shall be approved or allowed by the
29 commission, in whole or in part, unless satisfactory proof is
30 submitted to the commission of the cost to the affiliated

1 interest of rendering the service or furnishing the service,
2 property, security, right or thing to the public utility. No
3 proof shall be satisfactory, within the meaning of the foregoing
4 sentence, unless it includes the original (or verified copies)
5 of the relevant cost records and other relevant accounts of the
6 affiliated interest, or such abstract thereof or summary taken
7 therefrom as the commission may deem adequate, properly
8 identified and duly authenticated. The commission may, where
9 reasonable, approve or disapprove such contracts or arrangements
10 without the submission of such cost records or accounts.

11 § 2107. Federal regulatory agencies.

12 The provisions of this chapter shall not be applicable to the
13 rates and related terms and conditions for the interstate
14 transmission of electricity, natural gas, liquified natural gas,
15 substitute natural gas, liquified propane gas or naphtha which
16 have been submitted to and approved by a Federal regulatory
17 agency having jurisdiction thereof, except that the commission
18 may regulate the volume of such purchases.

19 SUBPART D

20 SPECIAL PROVISIONS RELATING TO REGULATION

21 OF PUBLIC UTILITIES

22 Chapter

23 23. Common Carriers

24 25. Contract Carrier by Motor Vehicle and Broker

25 27. Railroads

26 29. Telephone and Telegraph Wires

27 CHAPTER 23

28 COMMON CARRIERS

29 Sec.

30 2301. Operation and distribution of facilities of common

1 carriers.

2 2302. Transfers and time schedules of common carriers.

3 2303. Common carrier connections with other lines.

4 2304. Liability of common carriers for damages to property
5 in transit; bills of lading.

6 2305. Full crews.

7 § 2301. Operation and distribution of facilities of common
8 carriers.

9 Every common carrier shall furnish a reasonably sufficient
10 number of safe facilities, and run and operate the same with
11 such motive power as may reasonably be required, in the
12 transportation of all such passengers or property as may seek,
13 or be offered to it, for such transportation, and shall operate
14 its facilities with sufficient frequency, at such reasonable and
15 proper times, and to and from such stations or points, as the
16 commission, having regard to the accommodation, convenience, and
17 safety of the public, may require; and, when required by the
18 commission, shall change the time schedule for the operation of
19 its facilities, and, generally, shall make any other
20 arrangements and improvements in its service which the
21 commission may require. If, at any particular time, a common
22 carrier may not have sufficient facilities to meet the
23 requirements for the transportation of property, then it shall
24 lawfully distribute all available facilities among the several
25 applicants therefor without discrimination between shippers,
26 localities, or competitive or noncompetitive points, in
27 accordance with such regulations as the commission may
28 prescribe. Such regulations, in the case of common carriers also
29 engaged in interstate commerce, shall conform so far as
30 practicable to those prescribed by any Federal regulatory body

1 on the subject. Preference may always be given in the supply of
2 facilities for transportation of fuel, livestock, or perishable
3 matter.

4 § 2302. Transfers and time schedules of common carriers.

5 Whenever the commission shall, after hearing had upon its own
6 motion or upon complaint, deem it necessary or proper for the
7 accommodation, convenience, and safety of the public in the
8 transportation of passengers, every common carrier shall
9 transfer such passengers to or from another part of the system
10 of such common carrier and, to this end, shall make proper and
11 convenient arrangement or adjustment of the time schedules of
12 such common carrier, and shall also make such proper and
13 convenient arrangement or adjustment of the time schedules of
14 such common carrier with those of like adjustment of the time
15 schedules of such common carrier with those of like, contiguous,
16 or connecting common carriers, as the commission shall deem
17 necessary or proper for the accommodation, convenience, and
18 safety of the public.

19 § 2303. Common carrier connections with other lines.

20 (a) General rule.--Every common carrier shall construct and
21 maintain, whenever the commission may, after hearing had upon
22 its own motion or upon complaint, require the same, such switch
23 or other connections with or between the lines of a like common
24 carrier, where the same is reasonably practical, to form a
25 continuous line of transportation, and to cause the
26 transportation of passengers or property between points within
27 this Commonwealth to be without unreasonable interruption or
28 delay, and shall establish through routes and service therein,
29 and joint rates applicable thereto, and, where practicable,
30 shall transport passengers or property over the same without

1 transfer from the originating facilities. In case of failure of
2 the common carriers concerned to agree among themselves upon the
3 division of the cost of construction, maintenance, and operation
4 of the connections thus provided for, or the allowance to be
5 made for the interchange of service, the commission shall
6 ascertain and, by order, prescribe and fix the equitable and
7 just apportionment and division of the same.

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

13 § 2304. Liability of common carriers for damages to property
14 in transit; bills of lading.

15 (a) General rule.--Every common carrier that receives
16 property for transportation between points within this
17 Commonwealth shall issue a receipt or bill of lading therefor,
18 and shall be liable to the lawful holder thereof for any loss,
19 damage, or injury to such property caused by it, or any other
20 common carrier to which such property may be delivered, or over
21 whose line such property may be transported. No contract,
22 receipt, rule or regulation shall exempt such common carrier
23 from the liability hereby imposed. The commission may, by
24 regulation or order, authorize or require any common carrier to
25 establish and maintain rates related to the value of shipments
26 declared in writing by the shipper, or agreed upon in writing as
27 the release value of such shipments; such declaration or
28 agreement to have no effect other than to limit liability and
29 recovery to an amount not exceeding the value so declared or
30 released. Any tariff filed pursuant to such regulation or order

1 shall specifically refer thereto.

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

16 § 2305. Full crews.

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

22 CHAPTER 25

23 CONTRACT CARRIER BY MOTOR VEHICLE AND BROKER

24 Sec.

25 ~~2501. Definitions.~~

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26 2501. DECLARATION OF POLICY AND DEFINITIONS.

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27 2502. Regulation and classification of contract carrier and
28 broker.

29 2503. Permits required of contract carriers.

30 2504. Dual operation by motor carriers.

1 2505. Licenses and financial responsibility required of
2 brokers.
3 2506. Copies of contracts to be filed with commission; charges
4 and changes therein.
5 2507. Minimum rates fixed and practices prescribed on
6 complaint.
7 2508. Accounts, records and reports.
8 2509. Temporary permits and licenses.

9 ~~§ 2501. Definitions.~~

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10 § 2501. DECLARATION OF POLICY AND DEFINITIONS.

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11 (A) DECLARATION OF POLICY.--IT IS HEREBY DECLARED TO BE THE
12 POLICY OF THE GENERAL ASSEMBLY TO REGULATE IN THIS PART THE
13 SERVICE OF COMMON CARRIERS BY MOTOR VEHICLE AND FORWARDERS IN
14 SUCH MANNER AS TO RECOGNIZE AND PRESERVE THE INHERENT ADVANTAGES
15 OF, AND FOSTER SOUND ECONOMIC CONDITIONS IN SUCH SERVICE, AND
16 AMONG SUCH CARRIERS AND FORWARDERS IN THE PUBLIC INTEREST; TO
17 PROMOTE SAFE, ADEQUATE, ECONOMICAL, AND EFFICIENT SERVICE BY
18 COMMON CARRIERS BY MOTOR VEHICLE AND FORWARDERS, AND JUST AND
19 REASONABLE RATES THEREFOR, WITHOUT UNJUST DISCRIMINATION, AND
20 UNFAIR OR DESTRUCTIVE PRACTICES; TO IMPROVE THE RELATIONS
21 BETWEEN, AND COORDINATE THE SERVICE AND REGULATION OF, COMMON
22 CARRIERS BY MOTOR VEHICLE, FORWARDERS, AND OTHER CARRIERS; TO
23 DEVELOP AND PRESERVE A SAFE HIGHWAY TRANSPORTATION SYSTEM
24 PROPERLY ADAPTED TO THE NEEDS OF THE COMMERCE OF THIS
25 COMMONWEALTH AND INSURE ITS AVAILABILITY BETWEEN ALL POINTS OF
26 PRODUCTION AND MARKETS OF THIS COMMONWEALTH. IT IS HEREBY FOUND
27 AS A FACT, AFTER DUE INVESTIGATION AND DELIBERATION, THAT THE
28 SERVICE OF COMMON CARRIERS BY MOTOR VEHICLE, FORWARDERS,
29 CONTRACT CARRIERS BY MOTOR VEHICLE, AND BROKERS, INCLUDING THE
30 PROCUREMENT AND PROVISION OF MOTOR VEHICLES AND OTHER FACILITIES

1 FOR THE SAFE TRANSPORTATION OF PASSENGERS OR PROPERTY OVER THE
2 HIGHWAYS, ARE SO CLOSELY INTERWOVEN AND INTERDEPENDENT, AND SO
3 DIRECTLY AFFECT EACH OTHER, THAT IN ORDER EFFECTIVELY TO
4 REGULATE SUCH COMMON CARRIERS BY MOTOR VEHICLE AND FORWARDERS,
5 AND TO PROVIDE A PROPER AND SAFE HIGHWAY TRANSPORTATION SYSTEM
6 IN THE PUBLIC INTEREST, IT IS NECESSARY TO REGULATE THE SERVICE
7 OF SUCH CONTRACT CARRIERS BY MOTOR VEHICLE AND BROKERS,
8 INCLUDING THE PROCUREMENT AND PROVISION OF MOTOR VEHICLES AND
9 OTHER FACILITIES FOR THE SAFE TRANSPORTATION OF PASSENGERS OR
10 PROPERTY OVER THE HIGHWAYS, IN THE MANNER SET FORTH IN THIS
11 CHAPTER.

12 ~~The~~ (B) DEFINITIONS.--THE following words and phrases when <—
13 used in this part shall have, unless the context clearly
14 indicates otherwise, the meanings given to them in this section:

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

27 "Contract carrier by motor vehicle."

28 (1) The term "contract carrier by motor vehicle"
29 includes any person or corporation who or which provides or
30 furnishes transportation of passengers or property, or both,

1 or any class of passengers or property, between points within
2 this Commonwealth by motor vehicle for compensation, whether
3 or not the owner or operator of such motor vehicle, or who or
4 which provides or furnishes, with or without drivers, any
5 motor vehicle for such transportation, or for use in such
6 transportation, other than as a common carrier by motor
7 vehicle.

8 (2) The term "contract carrier by motor vehicle" does
9 not include:

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

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

19 (iii) Any owner or operator of a farm transporting
20 agricultural products from or farm supplies to such farm,
21 or any independent contractor hauling agricultural
22 products or farm supplies, exclusively, for one or more
23 owners or operators of farms.

24 (iv) Transportation of school children for school
25 purposes or to and from school sponsored extra curricular
26 activities whether as participants or spectators,
27 together with chaperons who might accompany them as
28 designated by the board of school districts not exceeding
29 five in number, or between their homes and Sunday school
30 in any motor vehicle owned by the school district,

1 private school or parochial school, or the transportation
2 of school children between their homes and school or to
3 and from school sponsored extra curricular or educational
4 activities whether as participants or spectators,
5 together with chaperons who might accompany them as
6 designated by the board of school directors not exceeding
7 five in number, if the person performing the extra
8 curricular transportation has a contract for the
9 transportation of school children between their homes and
10 school, with the private or parochial school, with the
11 school district or jointure in which the school is
12 located, or with a school district that is a member of a
13 jointure in which the school is located if the jointure
14 has no contracts with other persons for the
15 transportation of students between their homes and
16 school, and if the person maintains a copy of all
17 contracts in the vehicle at all times, or children
18 between their homes and Sunday school in any motor
19 vehicle operated under contract with the school district,
20 private school or parochial school.

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

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

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

30 (viii) Transportation by towing of wrecked or

1 disabled motor vehicles.

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

5 § 2502. Regulation and classification of contract carrier
6 and broker.

7 (a) Regulation.--The commission shall regulate:

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

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

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

22 § 2503. Permits required of contract carriers.

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

30 (b) Application and issuance.--Every application for such

1 permit shall be made to the commission in writing, be verified
2 by oath or affirmation, and shall be in such form and contain
3 such information as the commission may require by its
4 regulations. A permit shall be issued by the commission to any
5 qualified applicant therefor authorizing in whole or in part the
6 service covered by the application, if it appears from the
7 application, or from any hearing held thereon, that the
8 applicant is fit, willing and able properly to perform the
9 service of a contract carrier by motor vehicle, and to conform
10 to the provisions of this chapter and the lawful orders or
11 regulations of the commission thereunder, and that the proposed
12 service to the extent authorized by the permit will be
13 consistent with the public interest AND THE POLICY DECLARED IN <—
14 SECTION 2501 (RELATING TO DECLARATION OF POLICY AND
15 DEFINITIONS); otherwise such application shall be denied.

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

25 § 2504. Dual operation by motor carriers.

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

1 interest.

2 § 2505. Licenses and financial responsibility required of
3 brokers.

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

13 (b) License application and issuance.--Every application for
14 a brokerage license shall be made to the commission in writing,
15 be verified by oath or affirmation, and shall be in such form
16 and contain such information as the commission may, by its
17 regulations, require. A brokerage license shall be issued to any
18 qualified applicant therefor, authorizing the whole or any part
19 of the service covered by the application, if it is found that
20 the applicant is fit, willing and able properly to perform the
21 service proposed and to conform to the provisions of this part
22 and the lawful orders and regulations of the commission
23 thereunder, and that the proposed service, to the extent
24 authorized by the license, will be consistent with the public
25 interest AND THE POLICY DECLARED IN SECTION 2501 (RELATING TO <—
26 DECLARATION OF POLICY AND DEFINITIONS); OTHERWISE SUCH
27 APPLICATION SHALL BE DENIED.

28 (c) Regulation and bond.--The commission shall prescribe
29 reasonable regulations to be observed by any broker for the
30 protection of passengers or property transported by motor

1 vehicle, and no brokerage license shall be issued or remain in
2 force unless the holder thereof shall have furnished a bond or
3 other security approved by the commission, in such form and
4 amount as will insure the financial responsibility of the broker
5 and the transportation of passengers or property in accordance
6 with contracts, agreements or arrangements therefor.

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

10 § 2506. Copies of contracts to be filed with commission;
11 charges and changes therein.

12 (a) General rule.--It shall be the duty of every contract
13 carrier by motor vehicle to reduce to writing and file with the
14 commission all contracts, or copies thereof, pertaining to the
15 service of such carrier, and such schedules or other information
16 pertaining to the rates of such carrier, in such form and
17 detail, and at such times, as the commission may require. No
18 such contract carrier shall engage in the transportation of
19 passengers or property, unless the minimum charges for such
20 transportation by such carrier have been filed with the
21 commission, or copies of all contracts reduced to writing and
22 filed with the commission. No reduction shall be made in any
23 charge either directly or by means of any change in any rule,
24 regulation or practice affecting such charge, except after 60
25 days notice of the proposed change filed in such form and manner
26 as the commission may by regulation prescribe, but the
27 commission may, in its discretion, allow such change upon less
28 notice. Such notice shall plainly state the change proposed to
29 be made and the time when such change will become effective. No
30 such carrier shall demand, charge, or collect a less

1 compensation for such transportation than the charges filed in
2 accordance with this section, as affected by any rule,
3 regulation, or practice so filed, or as prescribed by the
4 commission from time to time, and it shall be unlawful for any
5 such carrier, by the furnishing of special service, facilities,
6 or privileges, or by any other device whatsoever, to charge,
7 accept or receive less than the minimum charge so filed or
8 prescribed.

9 (b) Reduced charges.--Whenever any such contract carrier
10 shall file with the commission any schedule or contract stating
11 a reduced charge for the transportation of passengers or
12 property directly or by means of any rule, regulation or
13 practice, the commission is hereby authorized and empowered,
14 upon complaint, or upon its own motion, at once and if it so
15 orders, without answer or other formal pleading, but upon
16 reasonable notice, to enter upon a hearing concerning the
17 reasonableness and justness of such charge, rule, regulation, or
18 practice; and pending such hearing and decision thereon, the
19 commission, by filing with such schedule or contract, and
20 delivering to the carrier affected thereby, a statement in
21 writing of its reasons for such suspension, may suspend the
22 operation of such schedule or contract, or defer the use of such
23 charge, rule, regulation or practice for a period of 90 days;
24 and if the proceeding has not been concluded and a final order
25 made within such period, the commission may, from time to time,
26 extend the period of suspension, but not for a longer period in
27 the aggregate than 180 days beyond the time when it would
28 otherwise become effective; and after hearing, whether completed
29 before or after the charge, rule, regulation, or practice
30 becomes effective, the commission may make such order with

1 reference thereto, as would be proper in a proceeding instituted
2 after it had become effective.

3 § 2507. Minimum rates fixed and practices prescribed on
4 complaint.

5 Whenever, after hearing upon complaint or its own motion, the
6 commission finds that any rate of any contract carrier by motor
7 vehicle, or any regulation or practice of any such carrier
8 affecting such rate for the transportation of passengers or
9 property, contravenes the public ~~interest~~, POLICY AS SET FORTH <—
10 IN SECTION 2501 (RELATING TO DECLARATION OF POLICY AND
11 DEFINITIONS), the commission may prescribe such minimum rates or
12 such regulations or practices as in its judgment may be just and
13 reasonable to promote the public interest. Such minimum rates or
14 such regulations or practices so prescribed by the commission
15 shall not be inconsistent with the ~~public interest~~, POLICY <—
16 DECLARED IN SECTION 2501, and the commission shall give due
17 consideration to the cost of the service of such carriers, and
18 to the effect of such minimum rates or such regulations or
19 practices upon the transportation of passengers or property by
20 such carriers, and diversion of the business of any common
21 carrier by motor vehicle to other forms of transportation. All
22 complaints to the commission under this section shall state
23 fully the facts complained of and the reasons for such
24 complaints, and shall be made under oath or affirmation.

25 § 2508. Accounts, records and reports.

26 (a) Reports.--The commission is hereby authorized to require
27 annual, periodical, or special reports from all contract
28 carriers by motor vehicle and brokers; to prescribe the manner
29 and form in which such reports shall be made; and to require
30 from such carriers and brokers, specific answers to all

1 questions upon which the commission may deem information to be
2 necessary. Such reports shall be under oath or affirmation
3 whenever the commission so requires.

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

18 § 2509. Temporary permits and licenses.

19 The commission, under such regulations as it shall prescribe,
20 may, without hearing, in proper cases, consider and approve
21 applications for permits and licenses, and in emergencies grant
22 temporary permits and licenses under this chapter, pending
23 action on permanent permits or licenses; but no application
24 shall be denied without right of hearing thereon being tendered
25 the applicant.

26 CHAPTER 27

27 RAILROADS

28 Sec.

29 2701. Railroad connections with sidetracks and laterals.

30 2702. Construction, relocation, suspension and abolition of

1 crossings.

2 2703. Ejectment in crossing cases.

3 2704. Compensation for damages occasioned by construction,
4 relocation or abolition of crossings.

5 2705. Speedometers AND SPEED RECORDERS.

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6 2706. Flag protection.

7 § 2701. Railroad connections with sidetracks and laterals.

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

19 (b) Additional connections and use.--Whenever any lateral
20 line of railroad or private sidetrack has been so connected with
21 a line of any railroad, or whenever any owner of such lateral
22 railroad or private sidetrack has at any time heretofore sold or
23 leased, or shall hereafter sell or lease, such lateral railroad
24 or sidetrack to any public utility engaged in a railroad
25 business, any person or corporation, including a municipal
26 corporation, shall be entitled to connect therewith, or to use
27 the same upon payment to the party incurring the primary expense
28 thereof of a reasonable proportion of the cost of such lateral
29 railroad or private sidetrack, and of the maintenance thereof,
30 which shall be determined, in case of disagreement among the

1 parties, by the commission, after notice to the interested
2 parties, and a hearing. Such connection and use can be made
3 without unreasonable interference with the use thereof by the
4 party incurring the primary expense of owning or leasing such
5 lateral railroad or sidetrack.

6 § 2702. Construction, relocation, suspension and abolition of
7 crossings.

8 (a) General rule.--No public utility, engaged in the
9 transportation of passengers or property, shall, without prior
10 order of the commission, construct its facilities across the
11 facilities of any other such public utility or across any
12 highway at grade or above or below grade, or at the same or
13 different levels; and no highway, without like order, shall be
14 so constructed across the facilities of any such public utility,
15 and, without like order, no such crossing heretofore or
16 hereafter constructed shall be altered, relocated, suspended or
17 abolished.

18 (b) Acquisition of property and regulation of crossing.--The
19 commission is hereby vested with exclusive power to appropriate
20 property for any such crossing, except as to such property as
21 has been or may hereafter be condemned by the Department of
22 Transportation for projects financed entirely by the
23 Commonwealth and for Federal Aid Projects under section 1004 of
24 the act of June 1, 1945 (P.L.1242, No.428), known as the "State
25 Highway Law," in which case the provisions of that statute shall
26 be in effect, and to determine and prescribe, by regulation or
27 order, the points at which, and the manner in which, such
28 crossing may be constructed, altered, relocated, suspended or
29 abolished, and the manner and conditions in or under which such
30 crossings shall be maintained, operated, and protected to

1 effectuate the prevention of accidents and the promotion of the
2 safety of the public. The commission shall require every
3 railroad the right-of-way of which crosses a public highway at
4 grade to cut or otherwise control the growth of brush and weeds
5 upon property owned by the railroad within 200 feet of such
6 crossing on both sides and in both directions so as to insure
7 proper visibility by motorists.

8 (c) Mandatory relocation, alteration, suspension or
9 abolition.--Upon its own motion or upon complaint, the
10 commission shall have exclusive power after hearing, upon notice
11 to all parties in interest, including the owners of adjacent
12 property, to order any such crossing heretofore or hereafter
13 constructed to be relocated or altered, or to be suspended or
14 abolished upon such reasonable terms and conditions as shall be
15 prescribed by the commission. In determining the plans and
16 specifications for any such crossing, the commission may lay
17 out, establish, and open such new highways as, in its opinion,
18 may be necessary to connect such crossing with any existing
19 highway, or make such crossing more available to public use; and
20 may abandon or vacate such highways or portions of highways as,
21 in the opinion of the commission, may be rendered unnecessary
22 for public use by the construction, relocation, or abandonment
23 of any of such crossings. The commission may order the work of
24 construction, relocation, alteration, protection, suspension or
25 abolition of any crossing aforesaid to be performed in whole or
26 in part by any public utility or municipal corporation concerned
27 or by the Commonwealth.

28 (d) Procedure for appropriation of property.--When any real
29 property is appropriated by the commission under this section,
30 each parcel of such property so appropriated, shall be

1 accurately described by metes and bounds, and the record owner
2 of each such parcel shall be named in the order of
3 appropriation. Unless otherwise recorded, the commission shall
4 file with the recorder of deeds of the proper county, a copy of
5 that portion of the order of the commission which appropriates
6 such property, and such plans and other detailed information as
7 the commission may deem necessary. Such portion of the
8 commission's order dealing with the specific property
9 appropriated shall be recorded and indexed under the name or
10 names of the record owners of such specific property at the
11 expense of the utility or utilities, political subdivision,
12 municipality or municipalities, governmental agency, including
13 the Department of Transportation and Public Utility Commission,
14 corporation or persons upon whose instigation, petition or
15 complaint ~~and~~ THE said crossing was constructed, reconstructed, <—
16 relocated, altered, suspended or abolished, as may be ordered,
17 to bear such expense or recording by the commission. WHEN SUCH <—
18 APPROPRIATION OF REAL PROPERTY HAS BEEN RECORDED UNDER THE
19 PROVISIONS OF ANY OTHER STATUTE, SUCH RECORDING SHALL NOT BE
20 DUPLICATED UNDER THE TERMS OF THIS SUBSECTION.

21 (e) Reactivation.--The commission may, within its discretion
22 upon petition by any railroad, the Commonwealth, a political
23 subdivision or any other affected party by order reactivate any
24 crossing suspended under this section.

25 (f) Danger to safety.--Upon the commission's finding of an
26 immediate danger to the safety and welfare of the public at any
27 such crossing, the commission shall order the crossing to be
28 immediately altered, improved, or suspended. Thereafter hearing
29 shall be held and costs shall be allocated in the manner
30 prescribed in this part.

1 (g) Suspensions.--Any order of suspension under this section
2 shall require the following for the protection of the motoring
3 public:

4 (1) Removal or covering of crossing warning devices.

5 (2) (i) Paving over the tracks; OR

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6 (ii) removal of the tracks and paving over of the
7 area formerly occupied by said tracks; or

8 (iii) barricading the crossing.

9 § 2703. Ejectment in crossing cases.

10 When any real property is appropriated by the commission in
11 connection with a crossing improvement under this part, the
12 commission may direct the removal of all structures within the
13 lines of such appropriation. In any case where any such order
14 has been or shall be made, the court of common pleas of the
15 county wherein the property appropriated shall be situate, may,
16 upon petition by the commission, the Department of
17 Transportation or the county commissioners, issue a writ or
18 writs of possession. The petition shall be served upon the
19 parties named therein and such other parties as the court may
20 direct. If no answer is filed, or if an answer is filed, and
21 after such hearing as the court shall direct, it shall deem the
22 same to be insufficient, the court shall, upon motion, direct
23 such writ to issue, and shall order and direct the sheriff to
24 execute such writ and deliver possession to the Commonwealth or
25 the county, as the case may be. Such procedure shall not be
26 considered as in derogation of, or in any manner affecting, any
27 other powers or procedure possessed by the Commonwealth or
28 county in such cases. No bond or other form of security shall be
29 required to be filed by the Commonwealth or the county.

30 § 2704. Compensation for damages occasioned by construction,

1 relocation or abolition of crossings.

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

17 (b) Judicial review.--Any party to the proceeding
18 dissatisfied with the determination of the commission may appeal
19 therefrom, as provided by law, and for this purpose is hereby
20 authorized to sue the Commonwealth. The commission may, of its
21 own motion, or upon application of any party in interest, submit
22 to the court of common pleas of the county wherein the property
23 affected is located, the determination of the amount of damages
24 to any property owner due to such condemnation, for which
25 purpose such court shall appoint viewers, from whose award of
26 damages an appeal to said court shall lie on the part of any
27 person or party aggrieved thereby, under the general law
28 applicable to the appointment of viewers, for the ascertainment
29 of damages due to the condemnation of private property for
30 public use.

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

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

28 ~~§ 2705. Speedometers.~~

29 ~~(a) General rule. No railroad locomotive shall be operated~~
30 ~~in excess of 30 miles per hour in this Commonwealth without a~~

1 ~~speedometer and speed recorder functioning correctly within four~~
2 ~~miles per hour within the view of the engineer or operator of~~
3 ~~such locomotive.~~

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

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

13 ~~(d) Schedule of regulated locomotives. Each railroad~~
14 ~~affected by the provisions of this section shall maintain at a~~
15 ~~designated location a list or schedule of the locomotives~~
16 ~~referred to in this section. It shall set forth, along with~~
17 ~~other information, the date that the speedometer and speed~~
18 ~~recorder referred to in subsection (a) was calibrated and found~~
19 ~~to be functioning in accordance with the provisions of this~~
20 ~~section. It shall advise the commission as to such location.~~

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

24 § 2705. SPEEDOMETERS AND SPEED RECORDERS.

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25 (A) GENERAL RULE.--NO RAILROAD LOCOMOTIVE SHALL BE OPERATED
26 IN EXCESS OF 30 MILES PER HOUR IN THIS COMMONWEALTH WITHOUT A
27 DEVICE OR DEVICES MAKING A PERMANENT RECORD OF THE SPEED AT
28 WHICH THE LOCOMOTIVE IS TRAVELING AND PROVIDING THE ENGINEER OR
29 OPERATOR OF THE LOCOMOTIVE WITH A VIEW OF SUCH SPEED. BOTH
30 DEVICES SHALL BE FUNCTIONING CORRECTLY WITHIN FOUR MILES PER

1 HOUR.

2 (B) EXCEPTIONS.--LOCOMOTIVES OPERATED OR USED EXCLUSIVELY
3 WITHIN DESIGNATED YARD LIMITS IN SWITCHING OR TRANSFER SERVICE
4 NEED NOT BE EQUIPPED IN ACCORDANCE WITH THE PROVISIONS OF THIS
5 SECTION. LOCOMOTIVES WHILE BEING USED IN COMMUTER PASSENGER
6 SERVICE NEED NOT BE EQUIPPED WITH A SPEED RECORDING DEVICE.

7 (C) NOTIFICATION OF COMPLIANCE.--EACH RAILROAD SHALL NOTIFY
8 THE COMMISSION OF THE DATE THAT EACH LOCOMOTIVE COMES INTO
9 COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. THE NOTIFICATION
10 SHALL STATE THE SERIAL NUMBER OR OTHER IDENTIFICATION OF THE
11 LOCOMOTIVE.

12 (D) SCHEDULE OF REGULATED LOCOMOTIVES.--EACH RAILROAD
13 AFFECTED BY THE PROVISIONS OF THIS SECTION SHALL MAINTAIN AT A
14 DESIGNATED LOCATION A LIST OR SCHEDULE OF THE LOCOMOTIVES
15 REFERRED TO IN THIS SECTION. IT SHALL SET FORTH, ALONG WITH
16 OTHER INFORMATION, THE DATE THAT THE DEVICE OR DEVICES REFERRED
17 TO IN SUBSECTION (A) WERE CALIBRATED AND FOUND TO BE FUNCTIONING
18 IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. IT SHALL
19 ADVISE THE COMMISSION AS TO SUCH LOCATION. IN THE CASE OF SPEED
20 RECORDERS, THE PERMANENT RECORDS REQUIRED HEREBY SHALL BE
21 MAINTAINED BY THE RAILROAD AT A LOCATION MADE KNOWN TO THE
22 COMMISSION FOR A PERIOD OF SIX MONTHS OR, IN THE EVENT OF AN
23 ACCIDENT DURING THE OPERATION OF THE LOCOMOTIVE INVOLVED, UNTIL
24 PERMISSION TO DESTROY THEM HAS BEEN GRANTED BY THE COMMISSION.

25 (E) ENFORCEMENT.--THE COMMISSION SHALL ENFORCE THE
26 PROVISIONS OF THIS SECTION AND MAY ISSUE SUCH ORDER OR ORDERS AS
27 MAY BE PROPER TO REQUIRE COMPLIANCE THEREWITH.

28 § 2706. Flag protection.

29 (a) General rule.--All railroads operating in this
30 Commonwealth shall promulgate and maintain appropriate operating

1 rules and special instructions for the government of their
2 respective employees in conformity with the following:

3 (1) When a train stops under circumstances in which it
4 may be overtaken by another train, a member of the crew must
5 provide flagging protection by going back immediately with a
6 red flag, torpedoes and fusees by day and with a red and/or
7 white light, torpedoes and fusees by night, a sufficient
8 distance to insure full protection, placing two torpedoes on
9 the rail and also, when necessary, display lighted fusees.

10 (2) When recalled and safety to the train will permit,
11 he may return.

12 (3) When conditions require, he will leave the torpedoes
13 and a lighted fusee.

14 (4) The front of the train must be protected in the same
15 way, when necessary, by a member of the crew.

16 (5) When a train is moving under circumstances in which
17 it may be overtaken by another train, a member of the crew
18 must take such action as may be necessary to insure full
19 protection. By night, or by day, when the view is obscured,
20 lighted fusees must be dropped off the moving train or
21 displayed at proper intervals.

22 (6) When day signals cannot be plainly seen, owing to
23 weather or other conditions, night signals must also be used.

24 (7) Conductors and enginemen are responsible for the
25 protection of their trains.

26 (8) When a pusher engine is assisting a train, coupled
27 behind the cabin or caboose car, and the member of the crew
28 who protects the rear-end of the train is riding in the cabin
29 or caboose car, the requirements as to the fusees will be met
30 by dropping them off between the cabin or caboose car and

1 pusher engine on the track the train is using, and not
2 between that track and an adjacent track.

3 (b) Exceptions.--Unless specific circumstances indicate to
4 the contrary, it will be presumed that trains stopping under the
5 following circumstances will not be overtaken by another train:

6 (1) Passenger trains making normal station stops.

7 (2) All trains stopping in manual block territory
8 protected by absolute block.

9 (3) All trains stopping so as to be completely within
10 the limits of classification or storage yards at the usual
11 place to change crews or remove power.

12 (c) Construction of section.--For the purposes of this
13 section a "train" means a movement on which the air brakes must
14 be connected and functioning under Federal law. This section is
15 not intended to require the employment of additional employees
16 or restrict the use of crew members in any manner.

17 (d) Enforcement.--The commission shall enforce the
18 provisions of this section.

19 CHAPTER 29

20 TELEPHONE AND TELEGRAPH WIRES

21 Sec.

22 2901. Definitions.

23 2902. Private wire for gambling information prohibited.

24 2903. Written contract for private wire.

25 2904. Joint use of telephone and telegraph facilities.

26 § 2901. Definitions.

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

30 "Dissemination." The act of transmitting, distributing,

1 advising, spreading, communicating, conveying or making known.

2 "Private wire." Any and all service equipment, facilities,
3 conduits, poles, wires, circuits, systems by which or by means
4 of which service is furnished for communication purposes, either
5 through the medium of telephone, telegraph, Morse,
6 teletypewriter, loudspeaker or any other means, or by which the
7 voice or electrical impulses are sent over a wire, and which
8 services are contracted for or leased for service between two or
9 more points specifically designated, and are not connected to or
10 available for general telegraphic or telephonic exchange or toll
11 service, and shall include such services known as "special
12 contract leased wire service," "leased line," "private line,"
13 "private system," "Morse line," "private wire," but shall not
14 include the usual and customary telephone service by which the
15 subscriber may be connected at each separate call to any other
16 telephone designated by him only through the general telephone
17 exchange system or toll service, and shall not include private
18 wires used for fire or burglar alarm purposes, nor telegraph
19 messenger call boxes and circuits used in connection therewith,
20 time clock circuits used for furnishing correct time service,
21 nor telegraph teleprinters when these teleprinters terminate in
22 the telegraph companies' offices and are not directly connected
23 between two customers.

24 "Public utility." A person, partnership, association or
25 corporation, now or hereafter owning or operating in this
26 Commonwealth, equipment or facilities for conveying or
27 transmitting messages or communications by telephone or
28 telegraph to the public for compensation.

29 § 2902. Private wire for gambling information prohibited.

30 (a) General rule.--It is unlawful for any public utility

1 knowingly to furnish to any person any private wire for use or
2 intended for use in the dissemination of information in
3 furtherance of gambling or for gambling purposes. Any contract
4 shall constitute prima facie evidence that such private wire
5 will be used in furtherance of gambling or for gambling purposes
6 if it shall appear in such contract, or otherwise, that such
7 private wire will be used, is intended to be used or has been
8 used for the dissemination of information pertaining to any
9 horse-racing, race track, race horse, betting, betting odds or
10 any information relative thereto.

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

18 § 2903. Written contract for private wire.

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

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

30 (1) The furnishing of any private wire in case of public

1 emergency, or where the furnishing of the said private wire
2 is for a temporary purpose not to exceed 48 hours.

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

9 (c) Action by commission.--It is unlawful for any public
10 utility to furnish to any person any private wire without first
11 furnishing to the commission a duplicate original of the written
12 contract required by this section. The commission shall examine
13 the same forthwith and conduct such investigation as it may deem
14 necessary, and, if upon examination of the contract, or after
15 investigation, or otherwise at any time, the commission shall
16 find that the said private wire is intended for or has been used
17 for or is being used for the transmission of information or
18 advice in furtherance of gambling, the commission shall
19 disapprove the said contract and give notice of such disapproval
20 to the contracting parties. Thereafter it shall be unlawful for
21 any public utility to furnish the said private wire provided for
22 in the said contract. This subsection does not apply to the
23 furnishing of any private wire in case of public emergency, or
24 where the furnishing of the said private wire is for a temporary
25 purpose not to exceed 48 hours.

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

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

6 § 2904. Joint use of telephone and telegraph facilities.

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

27 (b) Trunk line connections.--The commission may, upon
28 complaint or upon its own motion, after reasonable notice and
29 hearing, by order, require any one or more public utilities to
30 connect their facilities, through the medium of suitable trunk

1 lines, with such manual or automatic inter-communicating
2 telephone or telegraph systems as may be wholly owned or leased
3 by such public utilities, or by any other person or corporation.
4 Rates for such trunk line connections and service shall be in
5 accordance with tariffs filed with and approved by the
6 commission.

7 SUBPART E

8 MISCELLANEOUS PROVISIONS

9 Chapter

10 31. Foreign Trade Zones

11 33. Violations and Penalties

12 CHAPTER 31

13 FOREIGN TRADE ZONES

14 Sec.

15 3101. Operation as a public utility.

16 3102. Establishment by private corporations and municipalities.

17 3103. Formation and authority of private corporations.

18 3104. Municipalities and corporations to comply with law;
19 forfeiture of rights.

20 3105. Reports to Department of Community Affairs.

21 § 3101. Operation as public utility.

22 Each foreign trade zone established and maintained within the
23 limits of this Commonwealth as set forth in this chapter shall
24 be operated as a public utility, and all rates and charges for
25 all services or privileges within the zone shall be fair and
26 reasonable, but no such rates or charges shall be subject to
27 supervision, regulation or control by the commission. Every
28 municipality and private corporation operating and maintaining a
29 foreign trade zone shall afford to all who may apply for the use
30 of the trade zone and its facilities and appurtenances, uniform

1 treatment under like conditions, subject to such treaties or
2 commercial conventions as are now in force or may hereafter be
3 made from time to time by the United States with foreign
4 governments.

5 § 3102. Establishment by private corporations and
6 municipalities.

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

1 § 3103. Formation and authority of private corporations.

2 Any such private corporation desiring to engage in the
3 business set forth in this chapter shall be formed as a business
4 corporation under the act of May 5, 1933 (P.L.364, No.106),
5 known as the "Business Corporation Law," and shall have all the
6 powers, rights and privileges, and be subject to all the
7 restrictions and limitations provided by the "Business
8 Corporation Law."

9 § 3104. Municipalities and corporations to comply with law;
10 forfeiture of rights.

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

25 § 3105. Reports to Department of Community Affairs.

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

CHAPTER 33

VIOLATIONS AND PENALTIES

Sec.

3301. Civil penalties for violations.

3302. Criminal penalties for violations.

3303. Nonliability for enforcement of lawful tariffs and rates.

3304. Unlawful issuance and assumption of securities.

3305. Misapplication of proceeds of securities.

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3310. Unauthorized operation by carriers and brokers.

3311. Bribery.

3312. Evasion of motor carrier and broker regulations.

3313. Excessive price on resale.

3314. Limitation of actions and cumulation of remedies.

3315. Disposition of fines and penalties.

§ 3301. Civil penalties for violations.

(a) General rule.--If any public utility, or any other person or corporation subject to this part, shall violate any of the provisions of this part, or shall do any matter or thing herein prohibited; or shall fail, omit, neglect, or refuse to perform any duty enjoined upon it by this part; or shall fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final direction, requirement, determination or order made by the commission, or any order of the commission prescribing temporary rates in any rate proceeding, or to comply with any final judgment, order or decree made by any court, such public utility, person or corporation for such violation,

1 omission, failure, neglect, or refusal, shall forfeit and pay to
2 the Commonwealth a sum not exceeding \$1,000, to be recovered by
3 an action of assumpsit instituted in the name of the
4 Commonwealth. In construing and enforcing the provisions of this
5 section, the violation, omission, failure, neglect, or refusal
6 of any officer, agent, or employee acting for, or employed by,
7 any such public utility, person or corporation shall, in every
8 case be deemed to be the violation, omission, failure, neglect,
9 or refusal of such public utility, person or corporation.

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

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

1 of violations.

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

6 § 3302. Criminal penalties for violations.

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

16 § 3303. Nonliability for enforcement of lawful tariffs and
17 rates.

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

28 (b) Contract carrier by motor vehicle.--No contract carrier
29 by motor vehicle, nor any officer, agent or employee thereof,
30 shall be liable for any penalty or forfeiture, or be subject to

1 any prosecution on account of demanding, collecting or receiving
2 any minimum rate prescribed by the commission under the
3 provisions of this part.

4 § 3304. Unlawful issuance and assumption of securities.

5 Any individual who shall knowingly affix his name or
6 attestation to any stock certificate or other evidence of
7 equitable interest, or any bond, note, trust certificate, or
8 other security issued or assumed by any public utility, or any
9 director who shall knowingly assent to the issuance or
10 assumption of any such stock certificate, or other evidence of
11 equitable interest, or any bond, note or other evidence of
12 indebtedness, or other security issued by any public utility, or
13 any director who shall knowingly assent to the issue of any such
14 certificate of stock, trust certificate, corporate bond, note,
15 or other evidence of indebtedness, or other security of any
16 public utility, in violation of any of the provisions or
17 requirements of this part, or any individual who shall knowingly
18 make or assent to any false statement in any securities
19 certificate required to be registered with the commission under
20 the provisions of Chapter 19 (relating to securities and
21 obligations) who shall by any false statements, oral or written,
22 knowingly make, procure, or seek to procure, of the commission
23 the registration of any such securities certificate, shall be
24 guilty of a misdemeanor of the first degree.

25 § 3305. Misapplication of proceeds of securities.

26 Any individual who shall knowingly make or assent to any
27 application or disposition of any stock certificate, or other
28 evidence of equitable interest, or any bond, note, trust
29 certificate, or other evidence of indebtedness, or other
30 security, or the proceeds of the sale or pledge thereof, or any

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

13 § 3306. Execution of unlawful contracts.

14 Any individual who shall knowingly affix his name or
15 attestation to any written contract or arrangement, or who shall
16 enter into any written contract or arrangement, or any
17 individual who shall knowingly assent to the entering into of
18 any written or verbal contract, in violation of any of the
19 provisions or requirements of this part, or any individual
20 knowingly making or assenting to any false statement in any
21 application for the approval of any contract or arrangement, the
22 approval of which is required by this part, shall be guilty of a
23 misdemeanor of the first degree.

24 § 3307. Refusal to obey subpoena and testify.

25 If any individual who shall be subpoenaed to attend before
26 the commission, or its representative, shall fail to obey the
27 command of such subpoena, or if any individual in attendance
28 before the commission, or its representative, shall refuse to be
29 sworn or to be examined, or to answer any relevant question, or
30 to produce any relevant data, book, record, paper, or document

1 when ordered so to do by the commission, or its representative,
2 such person shall be guilty of a summary offense.

3 § 3308. Concealment of witnesses and records.

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

26 § 3309. Liability for damages occasioned by unlawful acts.

27 (a) General rule.--If any person or corporation shall do or
28 cause to be done any act, matter, or thing prohibited or
29 declared to be unlawful by this part, or shall refuse, neglect,
30 or omit to do any act, matter, or thing enjoined or required to

1 be done by this part, such person or corporation shall be liable
2 to the person or corporation injured thereby in the full amount
3 of damages sustained in consequence thereof. The liability of
4 public utilities, contract carriers by motor vehicles, and
5 brokers for negligence, as heretofore established by statute or
6 by common law, shall not be held or construed to be altered or
7 repealed by any of the provisions of this part.

8 (b) Rights of Commonwealth unaffected.--The recovery in this
9 section authorized shall in no manner affect a recovery by the
10 Commonwealth of the penalty prescribed in section 3301 (relating
11 to civil penalties for violations) for such violations of this
12 part.

13 § 3310. Unauthorized operation by carriers and brokers.

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

22 § 3311. Bribery.

23 Any officer, attorney, agent, or employee of any public
24 utility who offers to any commissioner, or to any person
25 appointed or employed by the commission, any office, place,
26 appointment, or position, or offers to give to any commissioner,
27 or to any person employed in the service of the commission, any
28 free pass or transportation, or any reduction in fares to which
29 the public generally is not entitled, or any free carriage of
30 property, or any present, gift, or gratuity, money, or valuable

1 thing of any kind, shall be guilty of a misdemeanor of the third
2 degree.

3 § 3312. Evasion of motor carrier and broker regulations.

4 Any person, whether carrier, shipper, consignee, or broker,
5 or any officer, employee, agent, or representative thereof, who
6 shall knowingly offer, grant, or give, or solicit, accept, or
7 receive any rebate, concession, or discrimination, in violation
8 of any provision of this part with respect to motor carriers, or
9 who, by means of false statements or representations or by use
10 of false or fictitious bill, bill of lading, receipt, voucher,
11 roll, account, claim, certificate, affidavit, deposition, lease,
12 or bill of sale, or by any other means or device, shall
13 knowingly and willfully, assist, suffer or permit any person or
14 persons, natural or artificial, to obtain transportation of
15 property by motor carrier subject to this part, for less than
16 the applicable rate, fare or charge, or who shall knowingly and
17 willfully, by any such means, or otherwise seek to evade or
18 defeat regulation in this part provided for motor carriers or
19 brokers, shall be guilty of a summary offense FOR THE FIRST
20 OFFENSE AND A MISDEMEANOR OF THE THIRD DEGREE FOR SUBSEQUENT
21 OFFENSES. <—

22 § 3313. Excessive price on resale.

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

29 § 3314. Limitation of actions and cumulation of remedies.

30 (a) General rule.--No action for the recovery of any

1 penalties or forfeitures incurred under the provisions of this
2 part, and no prosecutions on account of any matter or thing
3 mentioned in this part, shall be maintained unless brought
4 within three years from the date at which the liability therefor
5 arose, except as otherwise provided in this part.

6 (b) Remedies and penalties cumulative.--All suits, remedies,
7 prosecutions, penalties, and forfeitures provided for, or
8 accruing under, this part, shall be cumulative.

9 § 3315. Disposition of fines and penalties.

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

14 PART II

15 OTHER PROVISIONS (RESERVED)

16 Section 2. Repeals.--(a) Absolute repeals.--The following
17 acts and parts of acts are repealed:

18 Section 7, act of May 5, 1832 (P.L.501, No.189), entitled "An
19 act regulating lateral Rail-Roads."

20 Sections 12 and 18, act of February 19, 1849 (P.L.79, No.76),
21 entitled "An act regulating railroad companies."

22 Act of April 15, 1851 (1852 P.L.720, No.401), entitled "An
23 act to incorporate the Susquehanna and Erie railroad company."

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

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

1 Sections 10 and 11, act of April 4, 1868 (P.L.62, No.29),
2 entitled "An act to authorize the formation and regulation of
3 railroad corporations."

4 Section 2, act of June 19, 1871 (P.L.1360, No.1264), entitled
5 "An act relating to legal proceedings by or against
6 corporations."

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

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

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

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

26 Act of June 7, 1901 (P.L.531, No.253), entitled "An act
27 relating to railroad crossings of highways, and for the
28 regulation, alteration and abolition of grade crossings, except
29 in cities of the first and second classes."

30 Act of May 4, 1905 (P.L.380, No.232), entitled "An act to

1 empower railroad companies to change the location and grade, or
2 either, of bridges and their approaches belonging to bridge
3 corporations, to accommodate the location and construction of
4 their railroad, or the changing, relocating, widening,
5 straightening, or improvement thereof."

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

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

16 Act of May 31, 1907 (P.L.352, No.253), entitled "An act to
17 carry into effect the provisions of section seven, article
18 seventeen, of the Constitution of Pennsylvania, relating to
19 discriminations and preferences in charges and facilities; and
20 making the violation thereof a misdemeanor, and providing a
21 penalty for the same."

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

30 Act of May 31, 1907 (P.L.354, No.255), entitled "An act to

1 carry into effect the provisions of section three, article
2 seventeen, of the Constitution of Pennsylvania, relating to the
3 transportation of persons and property; and making the violation
4 thereof a misdemeanor, and providing a penalty for the same."

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

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

19 Act of June 10, 1911 (P.L.867, No.339), entitled "An act
20 fixing the width of public highways, where such highways are
21 crossed above or below grade by the tracks of any railroad,
22 except in cities and boroughs."

23 Act of July 10, 1919 (P.L.901, No.357), entitled "An act
24 supplementary to the Public Service Company Law, approved the
25 twenty-sixth day of July, Anno Domini one thousand nine hundred
26 and thirteen, giving to the Public Service Commission the power,
27 in the elimination of grade crossings, to direct the
28 construction of bridges or viaducts over, above, and across
29 railroads and railways, and, where necessary, across rivers and
30 streams; and, in order to effect said elimination, to change the

1 location to a new place or to another street or highway; and,
2 where the said bridge or viaduct is located by the commission
3 and directed to be constructed in the line of any street or
4 highway which crosses a navigable river, or a stream which has
5 been declared a public highway by act of Assembly, at a point
6 where the Commonwealth has been authorized to construct a public
7 bridge to replace a county bridge destroyed by flood or other
8 casualty, to provide for the payment by the Commonwealth of part
9 of the cost of said improvement from appropriations made to the
10 Board of Commissioners of Public Grounds and Buildings, the
11 making of the contract, and the expenditure of said
12 appropriation."

13 Act of April 7, 1927 (P.L.134, No.105), entitled "An act
14 relating to such highways as are opened by the order of the
15 Public Service Commission of the Commonwealth of Pennsylvania in
16 proceedings relating to elimination of grade crossings; and
17 relating to the establishment of such roads and connecting roads
18 as State highways; and providing for their construction and
19 maintenance at the expense of the Commonwealth; and providing in
20 certain event for the opening and maintaining of said roads by
21 city, borough, incorporated town, and township authorities."

22 Section 303, act of April 9, 1929 (P.L.177, No.175), known as
23 "The Administrative Code of 1929."

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

1 Act of March 31, 1937 (P.L.160, No.43), entitled "An act
2 creating a commission to be known as the Pennsylvania Public
3 Utility Commission; defining in part the powers and duties of
4 such commission; abolishing The Public Service Commission of the
5 Commonwealth of Pennsylvania, terminating the terms of the
6 members thereof, and transferring to the Pennsylvania Public
7 Utility Commission the records, employes, property, and
8 equipment of The Public Service Commission of the Commonwealth
9 of Pennsylvania; authorizing the Pennsylvania Public Utility
10 Commission to appear in and complete all pending proceedings,
11 legal or otherwise, instituted before, by or against The Public
12 Service Commission of the Commonwealth of Pennsylvania;
13 providing that all certificates of public convenience,
14 contracts, orders, and rules and regulations of the latter
15 commission shall remain effective until repealed, changed or
16 modified by the Pennsylvania Public Utility Commission, and
17 transferring and appropriating to the Pennsylvania Public
18 Utility Commission any unexpended balance of any existing
19 appropriation to The Public Service Commission of the
20 Commonwealth of Pennsylvania."

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

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

1 to be used for, the transmission of information or advices in
2 furtherance of gambling; making illegal the furnishing of
3 certain wires by certain public utilities after the disapproval
4 of the contract therefor by the Pennsylvania Public Utility
5 Commission; making illegal the use of certain wires for purposes
6 other than those specified in the written contract therefor;
7 imposing penalties; making the dissemination of information
8 pertaining to horse racing over certain wires prima facie
9 evidence that the same is in furtherance of gambling;
10 prescribing the burden of proof in proceedings hereunder; and
11 providing for appeal."

12 Section 3(d)(11), act of August 5, 1941 (P.L.752, No.286),
13 known as the "Civil Service Act."

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

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

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

30 Act of July 25, 1975 (P.L.96, No.49), entitled "An act

1 requiring speed recorders on locomotives."

2 Act of December 3, 1975 (P.L.481, No.142), entitled "An act
3 requiring that flag protection be provided against following
4 trains occupying the same track."

5 (b) Repeal as inconsistent.--Section 709, act of April 9,
6 1929 (P.L.177, No.175), known as "The Administrative Code of
7 1929," is repealed insofar as it is inconsistent with this act.

8 Section 3. Effective date.--This act shall take effect in 60
9 days except that the provisions of 66 Pa.C.S. §§ 1308 and 1310,
10 insofar as they are different from the law repealed hereby,
11 shall take effect October 7, 1977.