

under such lease or contract annual rentals, service charges or grants available for fixed charges on the obligations of not less than the average annual fixed charges on such obligations over the life thereof; or if the obligations are not in default and if, for the period of five fiscal years next preceding the date of acquisition, the income of such authority available for fixed charges has averaged not less than one and one-fifth times its average annual fixed charges of such obligations over the life of such obligations. As used in this clause, the term "income available for fixed charges" shall mean income after deducting operating and maintenance expenses, and, unless the obligations are payable in serial, annual maturities, or are supported by annual sinking fund payments, depreciation, but excluding extraordinary nonrecurring items of income or expenses; and the term "fixed charges" shall include principal, both maturity and sinking fund, and interest on bonded debt.

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Section 2. This act shall take effect immediately.

Act effective
immediately.

APPROVED—The 24th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 512

AN ACT

Amending the act of May 28, 1937 (P. L. 1053), entitled "An act relating to the regulation of public utilities; defining as public utilities certain corporations, companies, associations, and persons; providing for the regulation of public utilities, including, to a limited extent, municipalities engaging in public utility business, by prescribing, defining, and limiting their duties, powers, and liabilities, and regulating the exercise, surrender or abandonment of their powers, privileges, and franchises; defining and regulating contract carriers by motor vehicle and brokers in order to regulate effectively common carriers by motor vehicle; conferring upon the Pennsylvania Public Utility Commission the power and duty of supervising and regulating persons, associations, companies, and corporations, including, to a limited extent, municipal corporations subject to this act, and administering the provisions of this act; authorizing the commission to fix temporary rates; placing the burden of proof on public utilities to sustain their rates and certain other matters; authorizing a permissive or mandatory sliding scale method of regulating rates; providing for the supervision of financial and contractual relations between public utilities and affiliated interests, and supervision and regulation of accounts and securities or obligations issued, assumed, or kept by persons, associations, companies, corporations or municipal corporations subject to this act; conferring upon the commission power to vary, reform, or revise certain contracts; conferring upon the commission the exclusive power to regulate or order the con-

struction, alteration, relocation, protection, or abolition of crossings of facilities of public utilities, and of such facilities by or over public highways, to appropriate property for the construction or improvement of such crossings, and to award or apportion resultant costs and damages; authorizing owners of such property to sue the Commonwealth for such damages; providing for ejectment proceedings in connection with the appropriation of property for crossings; conferring upon the commission power to control and regulate budgets of public utilities; imposing upon persons, associations, companies, and corporations (except municipal corporations) subject to regulation, the cost of administering this act; prescribing and regulating practice and procedure before the commission and procedure for review by the courts of commission action; giving the court of common pleas of Dauphin County exclusive original jurisdiction over certain proceedings; prescribing penalties, fines, and imprisonment for violations of the provisions of this act and regulations and orders of the commission, and the procedure for enforcing such fines and penalties; and repealing legislation supplied and superseded by or inconsistent with this act," eliminating the requirement that public utilities and proposed public utilities obtain approval for their incorporation, qualification to do business in this Commonwealth, dissolution or withdrawal and for the renewal, amendment, extension and surrender of their charter powers; prohibiting the exercise of the power of eminent domain by proposed public utilities, and providing for the regulation of public utilities and proposed public utilities to the same extent as heretofore by means independent of the charter and corporate rights, powers, franchises and privileges of such utilities.

**Public Utility
Law.**

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

Section 201, act
of May 28, 1937,
P. L. 1053,
amended.

Section 1. Section 201, act of May 28, 1937 (P. L. 1053), known as the "Public Utility Law," is amended to read:

Section 201. [Organization of Public Utilities and] Beginning of Service.—Upon *the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, and not otherwise, it shall be lawful for any such proposed public utility*

[(a) To be incorporated, organized, or created: Provided, That existing laws relative to the incorporation, organization, and creation of such public utilities shall first have been complied with, prior to the application to the commission for its certificate of public convenience

(b) To] *to begin to offer, render, furnish, or supply service within this Commonwealth.*

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

Section 2. Subsections (a), (b), (c) and (d) of section 202 of the act, subsection (d), amended September 28, 1938 (P. L. 44), are amended to read:

Subsections (a), (b), (c) and (d), section 202 of act, subsection (d) amended September 28, 1938, P. L. 44, further amended.

Section 202. Enumeration of Acts Requiring Certificate.—Upon *the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, and not otherwise, it shall be lawful:*

(a) [For a foreign public utility to obtain the right to do business within this Commonwealth, if existing laws permit such foreign public utility to exercise its powers and franchises within this Commonwealth.

(b) For any public utility to renew its charter, or obtain any additional right, power, franchise, or privilege, by any amendment or supplement to its charter, or otherwise.

(c) For any public utility to begin [the exercise of any additional right, power, franchise, or privilege] *to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by—*

(1) *A certificate of public convenience heretofore or hereafter granted under this act or under The Public Service Company Law, July 26, 1913 (P. L. 1374), or*

(2) *A registration certificate granted by the commission under section 1401 of this act, or*

(3) *An unregistered right, power or privilege preserved by section 1401 of this act.*

[(d)] (b) For any public utility to [dissolve, or to] abandon or surrender, in whole or in part, any service [, right, power, franchise, or privilege]: Provided, That the provisions of this paragraph shall not apply to discontinuance of service to a patron for nonpayment of a bill, or upon request of a patron.

* * * * *

Section 3. The act is amended by adding, after section 203, a new section to read:

Act amended by adding a new section 204.

Section 204. Certain Appropriations by the Right of Eminent Domain Prohibited.—Neither a proposed domestic public utility hereafter incorporated nor a foreign public utility hereafter authorized to do business in this Commonwealth shall exercise any power of eminent domain within this Commonwealth until it shall have received the certificate of public convenience required by section 201 of this act.

Section 4. This act shall take effect January 1, 1964.

APPROVED—The 24th day of August, A. D. 1963.

WILLIAM W. SCRANTON