

Appropriation.

Section 5. The sum of ten thousand dollars (\$10,000.00), or so much thereof as may be necessary, is hereby specifically appropriated from the Motor License Fund for the purpose of paying the expenses incurred by the members of said commission; the moneys hereby appropriated to be paid out of the State Treasury upon warrants drawn by the Auditor General upon the State Treasurer, based upon duly itemized vouchers approved by the chairman of said commission.

APPROVED—The 3d day of June, A. D. 1933.

GIFFORD PINCHOT

No. 333

AN ACT

To amend an act, approved the twenty-sixth day of July, one thousand nine hundred and thirteen (Pamphlet Laws, one thousand three hundred seventy-four), entitled "An act defining public service companies; and providing for their regulation by prescribing and defining their duties and liabilities; prescribing, defining, and limiting their powers, and regulating their incorporation, and, to a limited extent, regulating municipal corporations engaged or about to engage in the business of public service companies; creating and establishing a Public Service Commission for the regulation aforesaid; prescribing and defining the powers and duties of such commission and its officers, including the exclusive power to regulate the construction, alteration, relocation, or abolition of the crossings of railroad corporations, street railway corporations, or other public service companies, and of public highways by the tracks or other facilities of said companies; providing for the ascertainment by the commission of the expense and damages resulting from such construction, alteration, relocation, or abolition, and for the payment of such expenses and damages, severally or proportionately, by the public service companies interested, the State, or municipal corporation concerned, and giving persons whose property is thereby taken, injured, or destroyed, authority to sue the Commonwealth for damages in such cases; providing for the terms, salaries, and compensation of the members of the commission, its officers, counsel, and employes; prescribing and regulating the practice and procedure before such commission, and upon appeal and judicial review of its orders and determinations by the courts of common pleas; and giving the court of common pleas of Dauphin County exclusive jurisdiction of such appeals in certain cases, and of all injunctions, mandamus, or other appropriate proceedings to enforce the provisions of this act and the orders of the commission, and to restrain such orders, subject to an appeal to the Supreme Court; prescribing penalties, fines, and imprisonment for the violation of the provisions of this act and for the violation of the orders of said commission; making it the duty of the Public Service Commission to enforce the provisions of the act, approved the nineteenth day of June, one thousand nine hundred and eleven, entitled 'An act to promote the safety of travelers and employes on railroads, by compelling common carriers by railroad to properly man their trains,' by amending section nine thereof; repealing the act approved the thirty-first day of May, one thousand nine hundred and seven, which provided for the appointment of the Pennsylvania State Railroad Commission; and sections one and two of the act, approved the fourth day of June, one thou-

sand eight hundred and eighty-three, entitled 'An act to enforce the provisions of the seventeenth article of the Constitution, relative to railroads and canals'; and an act, entitled 'To provide the maximum car service charges, including car storage charges, that railroad companies and corporations, or associations, may charge and collect on each car loading, and not unloaded within the free time for unloading cars, and fixing the free time that shall be allowed for unloading cars,' approved twenty-fourth day of May, Anno Domini one thousand nine hundred and seven; and the proviso of clause three and the provisos of clause seven of section thirty-four of the act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, one thousand eight hundred and seventy-four, and all other legislation inconsistent with or supplied by this act," by regulating the issuance, disposal, and guaranty of, or assumption of liability on, securities by public service companies; by giving the commission authority to suspend proposed changes in rates, and making provision for reparations in connection therewith; by requiring public service companies to carry proper and reasonable depreciation accounts; by giving the commission jurisdiction over the holders of the voting capital stock of public service companies; by giving the commission jurisdiction over transactions and contracts between holding companies, or affiliated interests, and public service companies; defining holding companies, affiliated interests, and parties in interest to such contract; by regulating the business of manufacture, sale, or lease of appliances and equipment by public service companies; by striking out the provisions relating to certificates of notification, and certificates of valuation; by imposing penalties; and by making additions to and changes in the Public Service Commission fee bill.

Section 1. Be it enacted, &c., That section one of article one of an act, approved the twenty-sixth day of July, one thousand nine hundred and thirteen (Pamphlet Laws, one thousand three hundred seventy-four), entitled "An act defining public service companies; and providing for their regulation by prescribing and defining their duties and liabilities; prescribing, defining, and limiting their powers, and regulating their incorporation, and, to a limited extent, regulating municipal corporations engaged or about to engage in the business of public service companies; creating and establishing a Public Service Commission for the regulation aforesaid; prescribing and defining the powers and duties of such commission and its officers, including the exclusive power to regulate the construction, alteration, relocation, or abolition of the crossings of railroad corporations, street railway corporations, or other public service companies, and of public highways by the tracks or other facilities of said companies; providing for the ascertainment by the commission of the expense and damages resulting from such construction, alteration, relocation, or abolition, and for the payment of such expense and damages, severally or proportionately, by the public service companies interested, the State, or municipal corporation concerned, and giving persons whose property is thereby taken, injured, or destroyed, authority to sue the Commonwealth for damages in such cases; providing for the terms, salaries, and compensation of the members of the

The Public  
Service Company  
Law.

Amendments.

Section 1, Article  
I, act of July 26,  
1913 (P. L. 1374).  
amended.

commission, its officers, counsel, and employes; prescribing and regulating the practice and procedure before such commission, and upon appeal and judicial review of its orders and determinations by the courts of common pleas; and giving the court of common pleas of Dauphin County exclusive jurisdiction of such appeals in certain cases, and of all injunctions, mandamus, or other appropriate proceedings to enforce the provisions of this act and the orders of the commission, and to restrain such orders, subject to an appeal to the Supreme Court; prescribing penalties, fines, and imprisonment for the violation of the provisions of this act and for the violation of the orders of said commission; making it the duty of the Public Service Commission to enforce the provisions of the act, approved the nineteenth day of June, one thousand nine hundred and eleven, entitled 'An act to promote the safety of travelers and employes on railroads, by compelling common carriers by railroad to properly man their trains,' by amending section nine thereof; repealing the act approved the thirty-first day of May, one thousand nine hundred and seven, which provided for the appointment of the Pennsylvania State Railroad Commission; and sections one and two of the act, approved the fourth day of June, one thousand eight hundred and eighty-three, entitled 'An act to enforce the provisions of the seventeenth article of the Constitution, relative to railroads and canals,' and an act, entitled 'To provide the maximum car service charges, including car storage charges, that railroad companies and corporations, or associations, may charge and collect on each car loading, and not unloaded within the free time for unloading cars, and fixing the free time that shall be allowed for unloading cars,' approved twenty-fourth day of May, Anno Domini one thousand nine hundred and seven; and the proviso of clause three and the provisos of clause seven of section thirty-four of the act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, one thousand eight hundred and seventy-four, and all other legislation inconsistent with or supplied by this act," is hereby amended by adding thereto the following definition:

*For the purposes of this act, the terms "to issue," "issued," "issuing," and "issuance," when used herein in connection with securities, mean and refer to securities executed by proper corporate action and duly authenticated, irrespective of whether such securities are to be disposed of, or held in the treasury of the public service company.*

Subsection (f),  
section 1, Article  
11, amended.

Change of tariffs  
or schedules.

Section 2. That subsection (f) of section one of article two of said act is hereby amended to read as follows:

(f) To make no change in any tariff or schedule, which shall have been filed or published or posted by any public service company in compliance with the pre-

ceding sections, except after thirty days' notice to the commission and to the public, posted and published in the manner, form, and places required with respect to the original tariffs or schedules, which shall plainly state the exact changes proposed to be made in the tariffs or schedules then in force, and whether an increase or decrease, and the time when the proposed changes will go into effect; and all such changes shall be shown by filing, posting, and publishing new tariffs or schedules, or shall be plainly indicated upon the tariffs or schedules in force at the time, and kept open to the public inspection: Provided, *That the commission may, as provided in section four of article five of this act, enter an order, during said period of thirty days, suspending a proposed change or changes in rates: And provided further, That the commission may, in its discretion and for good cause shown, allow changes in such tariffs or schedules upon less than thirty days' notice herein specified, or upon other conditions: And provided further, That no rate, practice, or classification which shall have been determined by the commission shall be changed or discontinued by the public service company, directly or through any change in classifications, rules, regulations, contracts, or practices, within a period of three years after such determination, without application to and the approval of the commission, of which application thirty days' prior notice shall be given in the said tariffs or schedules to the public: And provided further, That it shall be the duty of every public service company, when required by the commission, to issue to its shippers, consumers, or other patrons a certificate or other evidence of payments made by them to it in excess of the prior established rate, of an increase in which rate notice has been given to the commission and the public as aforesaid.*

Proviso.

Commission may suspend proposed changes in rates

Proviso.

Proviso.

Proviso.

Section 3. That subsection (i) of section one of article two of said act is hereby amended to read as follows:

(i) To adopt, use and keep, in conducting its business, such form, method, system or systems of accounts, records, and memoranda as shall be prescribed by the commission; to carry no charges in any operating account which should properly be charged to the capital account, or vice versa; to carry a proper and reasonable depreciation account [if required so to do by order of the commission]; and to obey and abide by all the regulations and orders of the commission concerning such accounts, records, and memoranda, and the keeping of the same: Provided, That this subsection shall also apply to all municipal corporations, with respect to the accounts, records, and memoranda relating to the rendering or furnishing by them to the public of any service of the kind or character rendered or furnished by public service companies, and to the making of reports in relation thereto: And provided further, That all corporations and persons, operating under lease or other con-

Subsection (i), section 1, Article II, amended.

System of accounts, records, etc.

Depreciation accounts.

Proviso.

Municipal corporations.

Proviso.

Operated under  
lease, etc.

tract any such plant or other facilities, owned by such municipal corporation, shall adopt, use, and keep, in respect to such operation of such plant or other facilities under such lease or contract, such form or system of accounts as shall be adapted to and reasonable under the circumstances, and consistent with the obligations of such lease or contract, or of any contract made in pursuance thereof, and shall conform to such orders as the commission, on hearing, may make in respect to such form or system of accounts, and shall make such reports in relation thereto as may be required by the commission.

Section 4,  
Article III,  
amended.

Section 4. That section four of article three of said act is hereby amended to read as follows:

Approval of  
commission  
required.

Section 4. *Upon the approval of the commission, evidenced by its certificate of public convenience first had and obtained, and not otherwise, and upon compliance with existing laws, it shall be lawful for any public service company—*

Issue of stocks,  
bonds, etc.

(a) To issue stocks, trust certificates, bonds, notes, or other evidences of indebtedness or other securities [or make any increase in the issue thereof], *payable in periods of twelve months or more after the date thereof, and now or hereafter to be authorized, hereinafter collectively termed "securities,"* in the manner prescribed by law, for and only for money, labor done, or money or property actually received, in accordance with the requirements of the Constitution and the laws of the Commonwealth.

Unlawful issues  
and increases  
void.

All stocks, trust certificates, bonds, notes, or other evidences of indebtedness or other securities, issued in violation of [this subsection] *the requirements of the Constitution and the laws of the Commonwealth pertaining to the constitutional requirements, and all fictitious [increase] increases of stocks, trust certificates, bonds, notes, or other indebtedness or securities, shall be void.*

Disposal of  
securities.

(b) *To dispose of securities held in the treasury of the public service company: Provided, however, That such approval shall not be required in the case of securities so held that have been re-acquired after title has passed out of the public service company.*

Guarantee of, or  
assumption of  
liability on,  
other securities.

(c) *To guarantee or assume liability for the payment of principal or interest of any securities issued by any other person, partnership, or corporation: Provided, however, That such approval shall not be required if a sale, assignment, transfer, lease, consolidation or merger of the property, powers, franchises, and privileges of the issuing company to or with the assuming company shall have been approved by the commission, as provided by subsection (c) of section three of article three of this act.*

[Application as hereinafter provided may be made by such public service companies to the commission for a certificate of valuation, to the effect that the provisions of this section have been complied with as to any stocks, trust certificates, bonds, notes, or other evidences of in-

debtedness or other securities, issued after the passage of this act; such application shall certify as to the number and amount thereof to be issued and the purpose of such issue, and shall contain such other facts and detailed information, and be in such form, as the commission shall determine and prescribe, and shall be signed and verified by the affidavit of the treasurer, auditor, controller, or other acting fiscal head of the public service company.]

[ (b) ] (d) [Every] *Before issuing, disposing of, guaranteeing, or assuming liability on any securities, every public service company shall file with the commission [on or prior to the date of issuance of any stock, trust certificates, bonds, notes, or other evidences of indebtedness or other securities,] an application, in such form as the commission may, from time to time, determine and prescribe; and in cases where stocks, trust certificates, bonds, notes, or other evidences of indebtedness or other securities payable in periods of less than twelve months are issued, the public service company shall file with the commission a written statement covering such issuance, such statement to be in such form as the commission, by general order, prescribes. [payable at periods of more than twelve months after the date thereof, and now or hereafter to be authorized (unless, upon application as aforesaid, a certificate of valuation shall have been obtained in accordance with the provisions of this act), a certificate, to be known as a Certificate of Notification, in such form as the commission may, from time to time, determine and prescribe, which, among other things that may be required by the commission, shall show—]*

Application or statement to be filed with commission.

[I. The total amount thereof.]

[II. The number and amount thereof outstanding prior to the date of such certificate, the amount thereof theretofore retired, the amount thereof theretofore undisposed of, and whether such amount is held in the treasury of the public service company as a free asset or pledged, and, if pledged, the terms and conditions of such pledge.]

[III. The number and amount thereof to be issued and the purpose of such issue, and whether to be sold, pledged, or held in the treasury of the public service company as a free asset; if such securities are to be sold, the terms of sale if a contract for such sale has been made, and, if any part of the consideration to be received therefor is other than money, an accurate and detailed description thereof; if such securities are to be pledged, the terms and conditions of such pledge.]

[IV. The number and amount thereof remaining unissued.]

[V. If the issue is of shares of stock, the certificate shall also show the par value thereof, and the number of then outstanding shares previously issued.]

[VI. The preference or privilege granted to the holders of any such shares of stock, the dates of maturity, rates of interest of any such bonds, notes or other evidences of indebtedness or other securities, and any conversion rights granted to the holders thereof, and the price, if any, at which such shares or such securities may be redeemed.] *When such an application is filed with the commission, it shall consider and pass upon the same within fifteen days, and where the application sets forth that the securities in question are to be issued, disposed of, or assumed for the acquisition of property, or for the construction, completion, extension, improvement, or betterment of the applicant's facilities, for the improvement of its service, for the obtaining of working capital, for the discharge or lawful refunding of the applicant's obligations, for the reimbursement of moneys actually expended for any of the aforesaid purposes from income or from any other moneys in the treasury of the applicant, however derived, not secured or obtained from the issue of its stock, bonds, notes, or other evidences of indebtedness payable at periods of twelve months or more after the date thereof, or for other corporate purposes allowed by law, and the commission so finds, it shall approve the application and make the order applied for, unless the commission shall find, for reasons stated by it, that the issuance, disposal or guaranty of, or assumption of liability on, said securities is not reasonably necessary to carry out any one or more of the purposes set forth in the application; and in determining whether to approve or disapprove an application for the issuance of securities, the commission is hereby authorized to regulate and control the character and amount thereof. Whenever the commission refuses, in whole or in part, an application to issue, dispose of, guarantee, or assume liability on securities, it shall state, specifically, its reasons so that such refusal may be reviewed judicially on appeal. If at the end of fifteen days after the filing of an application for permission to issue, dispose of, guarantee, or assume liability on securities, or at the end of any extension or extensions of that time which may be ordered by the commission, no order of disapproval is entered, the application shall be deemed, in fact and law, to have been approved and a certificate of public convenience shall be issued by the commission, and the securities in question may be issued, disposed of, or guaranteed or assumed, accordingly: Provided, That the commission may extend the original fifteen day period not to exceed an additional thirty days, unless the commission shall conclude that forty-five days is not a sufficient time in which to fully investigate and determine whether said certificate shall be issued, when it shall, by written order, extend the time for a specified reasonable period, and, in such order, set forth the reasons for such extension, which order shall be viewed in law as a final*

Application to be passed upon within 15 days.

Purposes and approval.

Character and amount of securities.

Reasons for disapproval.

Certificate of public convenience to be issued.

Extension of 15 day period.

*order for purposes of appeal, and upon appeal the court shall approve, decrease, or increase the period specified in the order.*

[ (c) Whenever any securities, set forth and described in any Certificate of Notification as pledged or held as a free asset in the treasury of the public service company, shall, subsequent to the filing of such certificate, be sold or repledged or otherwise disposed of by the public service company, such company shall file a further Certificate of Notification to that effect, setting forth therein all such facts as are required by subdivision III, subsection (b), of this section four.]

[ (d) ] (e) All [Certificates of Notification furnished to] applications filed with the commission shall be signed and verified by the affidavit of the treasurer, auditor, controller, or other acting fiscal head of the public service company. [Such Certificates of Notification shall at all times be deemed to be public records, and open to inspection, and may be given such further publicity as the commission may deem to be for the public interest or welfare.]

Verification of application.

The provisions of this act contained in regard to [Certificates of Valuation] *certificates of public convenience* [and, unless so required by the commission, in regard to Certificates of Notification,] shall not apply to the issuance of bonds, notes, or other evidences of indebtedness payable at periods of *less than* twelve months [or less], nor to the pledging or repledging of stocks, trust certificates, bonds, or other evidences of indebtedness to secure such bonds, notes, or evidences of indebtedness payable at periods of *less than* twelve months [or less]; but if such bonds, notes, or other evidence of indebtedness shall, in whole or in part, directly or indirectly, be refunded by any issue of bonds, notes, or other evidences of indebtedness running for [more than] twelve months *or more*, then the said mentioned provisions with regard to [Certificates of Notification and Valuation] *certificates of public convenience, and applications therefor*, shall apply.

To what issues of securities applicable.

Neither the filing with the commission of any [Certificate of Notification] *application*, nor the issuing by the commission of any certificate of public convenience [or Certificate of Valuation], and nothing therein or in this act contained, nor any hearing had, nor finding nor order nor decree made by the commission, nor any act or thing done by any public service company in pursuance thereof, nor any act or thing done by the commission under the provisions of this act, shall in anywise affect the invalidity, if any, of any stocks, trust certificates, bonds, notes, or other evidences of indebtedness or other securities, issued *or disposed of* or assumed or guaranteed, prior to the date when this act shall become effective, by any public service company.

Validity of securities, issued or disposed of prior to this act, unaffected.



Violation not to invalidate securities.

*No securities, the issue of which has been authorized by the commission as hereinbefore prescribed, shall, however, be or become invalid in the hands of any actual purchaser thereof for violation by a public service company of any provision of this subsection or for any failure, omission, or neglect by a public service company to obey, observe, or comply with any order of the commission with respect to the disposition or application of the proceeds of such securities, but, in the event of any such violation, failure, omission, or neglect by a public service company, it shall be subject to the penalty hereinafter prescribed in this act.*

Company to be subject to penalty.

Joint approval of securities.

*If a commission, or other agency or agencies, is empowered by another state or by the Federal Government to regulate and control the amount and character of securities to be issued, disposed of, guaranteed, or assumed by any public service company, then The Public Service Commission of the Commonwealth of Pennsylvania shall have the power to agree with such commission, or other agency or agencies, of such other state or of the Federal Government on the issue, disposal, or guaranty of, or assumption of liability on, stocks, bonds, notes, or other evidences of indebtedness by such public service company, and shall have the power to approve such issue, disposal, guaranty, or assumption jointly with such commission, or other agency or agencies, and to issue a joint certificate of such approval: Provided, however, That no such joint approval shall be required in order to express the consent to, and approval of, such issue, disposal, guaranty, or assumption, by the Commonwealth of Pennsylvania, if said issue, disposal, guaranty, or assumption is separately approved by The Public Service Commission of the Commonwealth of Pennsylvania.*

Proviso.

Investigations.

*In order to determine whether a certificate of public convenience authorizing a proposed issue, disposal, guaranty, or assumption of securities should be granted, the commission shall have power to make such inquiry or investigation, and to hold such hearings for that purpose, and to summon and examine such witnesses, books, papers, documents, and contracts, as it may deem pertinent and relevant.*

Hearings.

Examination of witnesses, etc.

Approval not to imply guaranty by State.

*The approval by the commission of any issue, disposal, or guaranty of, or assumption of liability on, securities shall not be construed to imply any guaranty or obligation as to such securities on the part of the Commonwealth of Pennsylvania.*

Section 11, Article III, amended.

Section 5. That section eleven of article three of said act is hereby amended to read as follows:

Contracts between public service companies and municipal corporations.

Section 11. (a) No contract or agreement between any public service company and any municipal corporation shall be valid unless approved by the commission: Provided, That upon notice to the local authorities concerned, any public service company may apply to the commission, before the consent of the local authorities

has been obtained, for a declaration by the commission of the terms and conditions upon which it will grant its approval of such contract or agreement, if at all.

(b) Upon the approval of the commission, evidenced by its certificate of public convenience first had and obtained, and not otherwise, it shall be lawful for any public service company to enter into any transaction with a holding company or affiliated interest, as hereinafter in this section defined, if such transaction involves (1) the loan of money by the public service company, (2) the assumption of any obligation or liability, whether as guarantor, endorser, or otherwise, by the public service company, or (3) the loan, sale, purchase, pledge, or exchange of stocks, bonds, notes, or other evidences of indebtedness by the public service company.

Transactions with a holding company or affiliated interest.

(c) Every public service company which shall have in force a contract with a holding company or affiliated interest, as hereinafter in this section defined, for the furnishing to such public service company of any management, supervisory, purchasing, construction, engineering, financing, or similar services, shall, within sixty days after the effective date of this act, file with the Public Service Commission a true and correct copy of such contract or contracts. Any public service company which shall hereafter enter into such a contract for such services, or which shall change an existing contract for such services, shall file with the commission a true and correct copy of the contract within ten days after its execution or change; and no such contract or contracts hereafter entered into shall become effective unless and until the public service company shall have so filed a true and correct copy of such contract or contracts with the Public Service Commission.

Contract to be filed within 60 days after effective date of act with commission.

Future contracts to be filed within 10 days after execution.

In every such contract, the public service company shall require the holding company or affiliated interest to furnish the commission with all information necessary to determine the reasonableness of such contract in any particular, and the commission shall not be required to allow, either as a part of a rate base or as an operating expense, any payment made by any public service company pursuant to any such contract unless such information is furnished prior to such payment, either by the public service company, holding company, or affiliated interest, when demanded by the commission.

Information to determine reasonableness of contract.

If after investigation and hearing, when a hearing is ordered by the Public Service Commission on its own motion, or when had on the demand of any party in interest, it be found by the commission that the terms of any such contract or contracts heretofore or hereafter entered into are unreasonable, in whole or in part, in that they place unjustifiable obligations on such public service company, or it be found that payments thereunder would have an injurious effect upon the rates or service of the public service company or upon the holders

Disapproval by commission.

Relevant facts.	<p>of any of its securities, the commission is hereby authorized to disapprove such contract, in whole or in part, and, to the extent disapproved, the terms thereof and the obligations assumed thereunder by the public service company shall be disregarded in all proceedings before the commission regarding rates charged or to be charged by such company. The commission in determining what is reasonable shall give weight to all of the relevant facts proper to be considered under the circumstances, which shall include such elements as the value of the services provided for in the contract or contracts and the cost to the holding company or affiliated interest of furnishing such services.</p>
Orders of approval or disapproval to state reasons.	<p>To facilitate judicial review, all approvals or disapprovals of any such contract or contracts by the commission, or of payments thereunder, must be by order filed, stating the reason for its approval, or in what particular or particulars the contract disapproved places an unjustifiable obligation on the public service company or is otherwise injurious, and all such orders shall be viewed in law as final orders for purposes of appeal; and when the commission shall deem it advisable and require it, notices of such orders shall be immediately published in two newspapers of daily circulation in the territory served by the public service company being party to the contract, for such period as the commission shall determine, at the expense of the public service company, setting forth the names of the actual parties to such contract, the nature of the contract, the amount involved in said contract, the date of its execution, and whether such contract has been approved or disapproved, with a reference to the proceeding.</p>
Notices of orders to be published.	<p>(d) A "holding company" shall mean every corporation, domestic or foreign, owning or holding or controlling, directly or indirectly, ten per centum or more of the voting capital stock of such public service company.</p>
Contents.	<p>An "affiliated interest" shall mean: (1) Every corporation or person in any chain of successive ownership or control of ten per centum or more of the voting capital stock of such public service company; (2) every corporation, ten per centum or more of whose voting capital stock is owned or controlled by a corporation or person that owns or controls ten per centum or more of the voting capital stock of such public service company, or is owned or controlled by any corporation or person in any chain of ownership or control of ten per centum or more of voting capital stock.</p>
"Holding company" defined.	<p>"A party in interest" shall mean the actual parties to a contract, as aforesaid, and any ratepayer or stockholder or holder of a security of a public service company which is a party to such contract.</p>
"Affiliated interest" defined.	<p>Section 6. That article three of said act is hereby amended by adding thereto the following section:</p>
"A party in interest" defined.	
Section 13 added to Article III.	

Section 13. It shall be unlawful for any public service company engaged in the manufacture, sale, or lease of any appliance or equipment offered by it for sale to the public—

Unlawful acts.

(a) To discontinue its public service to any consumer for failure of such consumer to pay the whole or any instalment of the purchase price or rental of any appliance or equipment sold to such consumer either on book account or on conditional sale or lease plan.

Discontinuance of service for failure to pay for appliances.

(b) To apply to the purchase price or rental, or any part thereof, of any appliance or equipment purchased by, or leased to, a consumer of public service, any deposit or other moneys of the consumer in the hands of the public service company: Provided, That this restriction shall not apply to meters or other appliances used to measure and ascertain the quantity of service rendered by the public service company to its customers and patrons.

Application of deposits to purchase price of appliances.

Proviso.

Meters.

(c) To employ, in the manufacture, sale, or lease of any appliance or equipment offered for sale by it to the public, any property used in, or revenue derived from, the rendering of service to the public, unless separate accounts as to the property used in, the costs incurred by, and the revenue derived from, the manufacture, lease, or sale of such appliance or equipment are adopted, used, and kept by the public service company.

Employment of service property and money in sales, etc., of appliances.

(d) To employ, in the manufacture, sale, or lease of any appliance or equipment offered for sale by it to the public, the service of any officer or employe engaged in rendering service to the public, unless separate accounts as to the amount paid to such officer or employe while engaged in the manufacture, lease, or sale of such appliance or equipment, and whether any amount be salary, bonus, commission, or expense, are adopted, used, and kept by the public service company.

Employment of service employes in sales, etc., of appliances.

Section 7. That section four of article five of said act is hereby amended to read as follows:

Section 4, Article V, amended.

Section 4. Whenever the commission receives notice of any change proposed in any tariff or schedule filed or posted under the provisions of this act, it shall have power, either upon complaint or upon its own motion, [and, if it so orders, without answer or other formal pleading by the interested public service company, after notice, to hold a public hearing, and make investigations as to the propriety of such proposed change and of the new rate, practice, or classification. After such hearing and investigation, whether completed before or after such change goes into effect, the commission may make such order in reference to the new rate, practice, and classification as would be proper in a proceeding initiated after the same had become effective.] upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate or rates, and, pending such hearing and decision thereon, the commission, upon filing

Change of rates, etc.

Hearing.

Suspension of operation of rates pending hearing.

Company may put suspended rates into effect by filing bond.

Substitution of other arrangement.

Refund or reparation.

Order of commission.

Petition for refund.

Failure to make refund.

Recovery of refund and penalty.

with such tariff or schedule, and delivering to the public service company affected thereby, a statement, in writing, of its reasons therefor, may, at any time before they become effective, suspend the operation of such rate or rates but not for a longer period than one hundred and fifty days beyond the time when such rate or rates would otherwise go into effect, unless the commission shall find that a longer time will be required, in which case the commission may further extend the period for not exceeding thirty days; provided, and notwithstanding any such order of suspension, the public service company may put such suspended rate or rates into effect on the date when it or they would have become effective if not so suspended, or at any time thereafter, by filing with the commission a bond, in such reasonable amount, with such sureties, and of such form as shall be approved by the commission, conditioned upon the refund, in a manner to be prescribed by order of the commission, to the persons entitled thereto of the amount of the excess if the rate or rates so put into effect are finally determined to be excessive, and the payment of the penalties, costs, and fees in this act provided for; or there may be substituted for such bond other arrangements satisfactory to the commission for the protection of the parties interested. The commission shall have power to fix and determine the amount of the refund or reparation, if any, to be paid to the parties entitled thereto, either with or without a separate petition therefor, as the commission may determine in its order pertaining to the reasonableness or unreasonableness of such rate or rates, and shall make such further order, with respect to the said refund or reparation, as it may deem necessary and proper to expedite and to facilitate the payment or adjustment, by credits or otherwise, of the said refund or reparation. The commission shall regard and treat any complaint or petition for refund or reparation by one or more consumers, shippers, or patrons, or any proceeding initiated on its own motion, as made in a representative capacity and as if filed or instituted in behalf of all consumers, shippers, or patrons affected by the rate or rates in question, and, in its order for refund or reparation, it shall fix and determine the amount or amounts of refund or reparation which shall be awarded or credited to each consumer, shipper, or patron affected. If the public service company fails, after written demand, to make the refund or to give the proper credit, in accordance with the order of the commission, within ninety days after such final determination, any person entitled to such refund may sue therefor in any court of this Commonwealth of competent jurisdiction, and be entitled to recover, in addition to the amount of the refund, a penalty of fifty per centum of the amount of the said refund, together with all court costs and reasonable attorneys' fees; but no suit may be maintained for that purpose

unless instituted within one year after such final determination. Any number of persons entitled to such refund may join as plaintiffs and recover their several claims in a single action, in which action the court will render a judgment severally for each plaintiff as his interest may appear. The foregoing provisions with reference to reparation and refund shall apply only to cases involving a change in rate or rates arising under this section, and the provisions of section five of this article shall apply to all other cases involving reparation or refund. At any such hearing involving any proposed increase in any rate or rates, the burden of proof to show that each such increased rate or rates is just and reasonable shall be upon the public service company.

Plaintiffs may join in single action.

Application of section.

Burden of proof.

The commission shall have power, in its discretion, and for good cause shown, to permit changes in the tariffs or schedules filed and published, upon less than the thirty days' notice specified in article two, section one [ (g) ] (f), of this act, or upon other conditions which shall be just and reasonable.

Notice of change.

The commission shall also have power, in its discretion, where any notice of increase in any rates, fares, tolls, or charges of a public service company has been filed, to require by general rule or special order that such company shall furnish to its shippers, consumers, or other patrons a certificate or other evidence of payments made by them in excess of the prior established rate.

Certificate of excessive payment.

Section 8. That section twenty-two of article five of said act is hereby amended to read as follows:

Section 22, Article V, amended.

Section 22. (a) The commission shall have full power and authority to require public service companies to report or account to the commission for the disposition and application of the proceeds of all sales or pledges of all stocks, trust certificates, bonds, notes, and other evidences of indebtedness or other securities, which accounts and reports shall be made in such form and detail as to the commission may seem advisable, and in accordance with reasonable rules and regulations which may be adopted by the commission.

Accounting for proceeds of securities.

(b) The commission shall have jurisdiction over the holders of the voting capital stock of all public service companies under the jurisdiction of the commission to such extent as may be necessary to enable the commission to require the disclosure of the identity and the respective interests of every owner of any substantial interest in such voting capital stock. Ten per centum or more is a substantial interest within the meaning of this section.

Jurisdiction of commission over holders of voting capital stock.

Substantial interest.

Section 9. That section thirty-seven of article six of said act is hereby amended to read as follows:

Section 37, Article VI, amended.

Section 37. Any president, secretary, treasurer, or other officer of any public service company, who shall knowingly affix his name or attestation to any certificate of stock, trust certificate, corporate bond, note, or other

Unlawful issuance of securities, etc.

evidence of indebtedness or other security issued by any public service company, or any director who shall knowingly assent to the issue of any such certificate of stock, trust certificate, corporate bond, note, or other evidence of indebtedness or other security of any such public service company, in violation of any of the provisions or requirements of this act, or of section seven of article sixteen of the Constitution; or any officer or director knowingly making or assenting to any false statement in any [certificate of notification] *application* required to be made to the commission by [subsections] *subsection* [ (b) or (c) ] (*d*) of section four of article three of this act,—shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo an imprisonment in the county jail for a term not exceeding five years, either or both, in the discretion of the court.

Penalty.

Section 38,  
Article VI,  
amended.

Unlawful  
application or  
disposition of  
securities, etc.

Section 10. That section thirty-eight of article six of said act is hereby amended to read as follows:

Section 38. Each and every director, president, secretary, treasurer, or other officer, agent, or employe of any public service company, who shall knowingly make or assent to any application or disposition of any stocks, trust certificates, bonds, notes, or other evidence of indebtedness or other securities, or the proceeds of the sale or pledge thereof, or any part thereof, in violation of any statement or contrary to any purpose in relation thereto set forth or contained in any [certificate of notification] *application required to be made to the commission by subsection (d) of section four of article three of this act*; or who shall by any false statements, oral or written, knowingly make, procure, or seek to procure of the commission the making or issuing of, any certificate herein provided; or who shall knowingly make or assent to any false statement in any report or account to the commission as to the disposition or application of the proceeds, or any part thereof, of any sale or pledge of any stocks, trust certificates, bonds, notes, or other evidences of indebtedness or other securities,—shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo an imprisonment in the county jail for a term not exceeding five years, either or both, in the discretion of the court.

Penalty.

Section 38.1  
added to  
Article VI.

Unlawful  
contracts.

Section 11. That article six of said act is hereby amended by adding thereto the following section:

*Section 38.1. Any president, secretary, treasurer, or other officer of any public service company, who shall knowingly affix his name or attestation to any written contract or arrangement, or who shall enter into any unwritten contract or arrangement, or any director who shall knowingly assent to the entering into of any written or unwritten contract or arrangement, in viola-*

*tion of any of the provisions or requirements of this act; or any officer or director knowingly making or assenting to any false statement in any application for the approval of any contract or arrangement, the approval of which is required by this act,—shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine not exceeding five thousand dollars, or undergo an imprisonment in the county jail for a term not exceeding five years, either or both, in the discretion of the court.*

False statement in application for approval of contract.

Penalty.

Section 12. That section forty-seven of article six of said act is hereby amended to read as follows:

Section 47, Article VI, as amended by act of July 5, 1917 (P. L. 684), further amended.

Section 47. The commission shall charge and collect the following fees for filing papers, and for copies of [all official orders, documents,] papers, records, et cetera:

Fees collectible by commission.

For copies of papers, *testimony*, and records [not required to be certified or otherwise authenticated by the commission, ten cents for each folio of one hundred words.], *twenty-five cents per page*.

[For certified copies of official documents and orders filed in its office, fifteen cents for each folio of one hundred words, and one dollar for each certificate, under seal, affixed thereto.

For copies of testimony and proceedings taken or had before the commission or a commissioner, not required to be certified or otherwise authenticated by the commission, ten cents for each folio of one hundred words.

For certified copies of testimony and proceedings taken or had before the commission or a commissioner, fifteen cents for each folio of one hundred words, and one dollar for each certificate, under seal, affixed thereto.

For certifying a copy of any report made by any public service company to the commission, two dollars.

For each certified copy of the annual report of the commission, one dollar and fifty cents.]

*For certifying a copy of any paper, testimony, or record, two dollars.*

For the filing of each application for a certificate of public convenience covering all matters other than security issues, the sum of five dollars.

[For the filing of each certificate of notification, the sum of ten dollars.]

*For filing of each application required to be made to the commission by subsection (d) of section four of article three of this act for the issuance of securities, the sum of one dollar per thousand dollars of the par or face value of securities covered by such application, but in no case less than ten dollars nor more than ten thousand dollars for any issue.*

[For the filing of each application for a certificate of valuation, the sum of twenty-five dollars.

No fee shall be charged or collected for copies of papers, records, official documents, testimony, or proceedings furnished to public officers for use in their



official capacity, nor for the annual report of the commission in the ordinary course of distribution.]

*For filing each application required to be made by subsection (d) of section four of article three of this act for the disposition of securities previously issued but not finally disposed of, or for the assumption of liability for or guaranty of securities of other persons, partnerships, or corporations, the sum of ten dollars.*

*For the purpose of this section, each share of stock without par value shall be deemed to have a par value of fifty dollars, unless such share is to be sold for more than fifty dollars, in which case such share shall be deemed to have a par value equal to the price at which sold.*

All fees charged and collected by the commission shall be paid into the State Treasury.

Constitutionality.

Section 13. It is hereby declared to be the legislative intent if this act cannot take effect in its entirety because of the decision of any court holding unconstitutional any part hereof, the remaining provisions of the act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

Effective date.

Section 14. The provisions of these amendments shall become effective on the first day of July, one thousand nine hundred and thirty-three.

APPROVED—The 3d day of June, A. D. 1933.

It was not an easy matter for me to decide whether or not to sign this bill. It is far from what it should be.

For many years I have been waging a fight, both to clean up the Public Service Commission and to amend The Public Service Company Law, so as to give the commission real power to protect the interests of ratepayers.

This bill is a miserable excuse. It is only a feeble first step in the direction of absolutely essential public utility legislation for Pennsylvania.

It has been represented to me by those who have been militant for the people's interests that to sign this bill may retard the passage of real legislation. It is suggested that the public utilities will demand that there be no further legislation until there has been time to see what this legislation has accomplished. Such an argument would be absurd, and I for one can be counted upon to fight just as vigorously as ever for additional amendments to The Public Service Company Law which will correct its present deficiencies.

There are two features in this bill which have moved me to sign it, and only two. They follow:

1. The bill makes possible the collection of reparations in one proceeding, thus doing away with the necessity for individual actions by individual ratepayers to collect small amounts improperly collected by public service companies during the pendency of rate litigation.

2. The bill brings to an end the racket indulged in by some public service companies of selling appliances on the instalment plan, and using the right to turn off the current as a club to collect instalments. Upon the approval of this bill, it will be impossible for any company to discontinue service because a customer has failed to pay an instalment on the purchase price or rental of any appliance.

The amendment made by this bill on the subject of rate increases is wholly unsatisfactory. The people are entitled to have rate increases suspended until the commission has approved them. This bill merely permits the commission, if it sees fit, to order an increase suspended.

The provisions relating to affiliates are equally unsatisfactory. They do not by any means go far enough to give to the commission the full power on this subject, which any commission must have in order to protect the public.

The provisions giving the commission the right to regulate security issues are a step in the right direction, but like the other amendments they are not adequate.

The bill wholly omits provisions limiting all franchises to fifty years, requiring excess earnings reserves to be set up, and simplifying the procedure under which municipalities may establish or acquire their own water, gas and electricity plants.

Amendments to cover the foregoing points were submitted by me and urged upon the Senate Committee. They were all turned down.

I am signing this bill because there are many thousands of persons who will benefit directly by the amendments relating to the recovery of reparations and the inability of a company to discontinue service because instalments on appliances have not been paid. This bill does not in any way end my fight and the fight of thousands of other people to make the regulation of public service companies in Pennsylvania what it ought to be. I am signing it only because my own measure was never reported from committee and this very small half loaf is better than no bread.

GIFFORD PINCHOT

