

# [ Commonwealth Act No. 146, November 07, 1936 ]

## **AN ACT TO REORGANIZE THE PUBLIC SERVICE COMMISSION, PRESCRIBE ITS POWERS AND DUTIES, DEFINE AND REGULATE PUBLIC SERVICES, PROVIDE AND FIX THE RATES AND QUOTA OF EXPENSES TO BE PAID BY THE SAME, AND FOR OTHER PURPOSES.**

*Be it enacted by the National Assembly of the Philippines:*

### CHAPTER I.—*Organization*

SECTION 1. This Act shall be known as the "Public Service Act."

SEC. 2. There is created a Commission which shall be designated and known as the Public Service Commission, and which shall be vested with the powers and duties hereafter specified. Whenever the word "Commission" is used in any part of this Act, it shall be held to mean the Public Service Commission or Public Service Commissioner. The Public Service Commission shall consist of a Public Service Commissioner and a Deputy Commissioner. The Public Service Commissioner and Deputy Public Service Commissioner shall be citizens and residents of the Philippines, not under thirty years of age, members of the Bar of the Philippine Islands, and shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments of the National Assembly.

SEC. 3. The Commissioner and Deputy Commissioner shall hold office until removed in accordance with the procedure prescribed in section one hundred and seventy-three of Act Numbered Twenty-seven hundred and eleven, known as the Revised Administrative Code. The Deputy Commissioner shall act on all matters delegated to him by the Public Service Commissioner, and in case of the latter's absence, illness or incapacity he shall act in his stead. In the performance of his functions upon assignment by the Public Service Commissioner, the Deputy Commissioner shall have authority to preside at the hearings of cases assigned to him and to render decisions therein, as well as to act on any matter referred to him by the Commissioner, and his action in such cases shall to all intents and purposes have the same effect and validity as if the Public Service Commissioner himself had acted thereon. In case of the absence, for any reason, of the Commissioner and Deputy designation of the Commissioner, the Secretary of Justice may designate any assistant attorney of the Department of Justice or any of the attorneys of the Commission to act as Commissioner; and in cases of emergency or extraordinary accumulation of work, the Secretary of Justice may also designate any of the officers above mentioned to act as additional Commissioner for such time as the interest of the public service may require.

SEC. 4. The Public Service Commissioner shall receive an annual compensation of ten thousand six hundred pesos; the Deputy Commissioner an annual compensation of seven thousand five hundred pesos; the secretary, who shall be an attorney, four thousand pesos; the auditor, four thousand pesos; one chief engineer for the land and water transportation division, five thousand one hundred pesos; one electrical engineer for the industrial division, four thousand pesos; one chief attorney for the

legal division, four thousand pesos; and each assistant attorney, three thousand pesos.

SEC. 5. The Public Service Commissioner, the Deputy Public Service Commissioner, and all other officers and employees of the Public Service Commission shall enjoy the same privileges and rights as the officers and employees of the classified civil service of the Government of the Philippines. They shall also be entitled to receive from the Government of the Philippines their necessary traveling expenses while traveling on the business of the Commission, which shall be paid on proper voucher therefor, approved by the Secretary of Justice, out of funds appropriated for the contingent expenses of the Commission.

SEC. 6. With the approval of the Secretary of Justice, the Public Service Commissioner shall appoint a secretary of the Commission, an auditor, two engineers and chiefs of the transportation and industrial divisions, one chief attorney and four assistant attorneys, and such inspectors, agents, and other officers and employees as may be necessary: *Provided, however,* That the persons at present performing the duties of secretaries, auditor, engineers, attorney and assistant attorneys of the Commission now designated as such may continue occupying their respective posts and shall hereafter perform their functions and duties until their successors shall be appointed. The Public Service Commissioner shall have general executive control, direction, and supervision over the work of the Commission and of its members, body and personnel, and over all administrative business.

SEC. 7. The secretary of the Commission, under the direction of the Commissioner, shall have charge of the administrative business of the Commission and shall perform such other duties as may be required of him. He shall be the recorder and official reporter of the proceedings of the Commission and shall have authority to administer oaths in all matters coming under the jurisdiction of the Commission. He shall be the custodian of the records, maps, profiles, tariffs, itineraries, reports, and any other documents and papers filed with the Commission or entrusted to his care and shall be responsible therefor to the Commission. He shall have authority to designate from time to time any of his delegates to perform the duties of deputy secretary with any of the Commissioners.

SEC. 8. The Commissioner shall furnish to the secretary such of its findings and decisions as in its judgment may be of general public interest; the secretary shall compile the same for the purpose of publication in a series of volumes to be designated "Reports of the Public Service Commission of the Philippines," which shall be published in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained without any further proof or authentication thereof.

SEC. 9. No member or employee of the Commission shall public have any official or professional relation with any public service as herein defined, or hold any other office of profit, or trust with the Government of the Philippines or of the United States.

SEC. 10. The Commission shall have its office in the City of Manila at such place as may be designated, and may hold hearings on any proceedings at such times and

places, within the Philippines, as it may provide by order in writing: Provided, That during- the months of April and May of each year, the Commissioner shall be on duty and Deputy Commissioner on vacation, or vice versa, in such manner that at least one of them shall be on duty during the vacation months once in every two years: Provided, further, That nothing hereinbefore provided shall prevent either of the Commissioners from rendering service and performing his duties during the vacation months when the interest of the public service shall require it: Provided, lastly, That notwithstanding the above provisions, the Commissioners shall be entitled to enjoy accrued leave and retirement privileges in the same manner as prescribed for judges of the Court of First Instance.

SEC. 11. The Commission shall have the power to make needful rules for its government and other proceedings not inconsistent with this Act and shall adopt a common seal; and judicial notice shall be taken of such seal. True copies of said rules and their amendments shall be promptly furnished to the Bureau of Printing and shall be forthwith published in the Official Gazette.

SEC. 12. The Commission shall report annually, as soon as practicable after the first day of January of each year, to the Secretary of Justice, making such recommendations as it may deem proper.

## Chapter II.—*Jurisdiction, Powers, and Duties of the Commission*

SEC. 13. Except as otherwise provided herein, the Commission shall have general supervision and regulation of, jurisdiction and control over, all public services, and also over their property, property rights, equipment, facilities; and franchises so far as may be necessary for the purpose of carrying out the provisions of this Act, and in the exercise of its authority it shall have the necessary powers and aid of the public force: *Provided, however,* That the Commission shall have no control or jurisdiction over ice plants, cold storage plants, or any public services operated by the Government of the United States in the Philippines exclusively for Its own use and not to serve private persons for pay or compensation, nor over municipal warehouses nor animal-drawn vehicles: *Provided, further.* That the Commission shall not exercise any control or supervision over air craft in the Philippines, except with regard to the fixing of maximum passenger and freight rates, nor over the Manila Railroad Company until the same shall be controlled by the Government of the Philippines, nor over radio companies or concerns except as regards the fixing of rates: *Provided, further,* That the control and jurisdiction of the Commission over ships shall be limited to the fixing of freight and passenger rates.

SEC. 14. The terms "public service" or "public utility" used in this Act include every individual, copartnership, association, corporation, or joint-stock company, whether domestic or foreign, their lessees, trustees, or receivers appointed by any court whatsoever, or any municipality, province, or other department of the Government of the Philippines, that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, any common carrier, railroad, street railway, traction railway, subway, freight and/or passenger motor vehicles, with or without fixed route, freight or any other car service, express service, steamboat or steamship line, ferries, small water craft, such as lighters, pontines, lorchas, and others, engaged in the transportation of passengers or cargo, shipyard, marine railway, marine repair shop, public warehouse, wharf, or dock not under the jurisdiction of the Insular Collector of Customs, ice, refrigeration, canal, irrigation,

pipe line, gas, electric light, heat, power, water, oil, sewer, telephone, wire or wireless, telegraph system, plant or equipment, and broadcasting stations, when owned, operated, managed, or controlled for public use or service within the Philippines, whether the owner or operator be an individual, copartnership, association, corporation or joint-stock company, either domestic or foreign, or a trustee or receiver appointed by any court whatsoever, or any municipality, province, or other department of the Government of the Philippines, or any other entities.

SEC. 15. No public service as herein defined shall operate in the Philippines without having first secured from the Commission a certificate, which shall be known as Certificate of Public Convenience or as Certificate of Public Convenience and Necessity, as the case may be, to the effect that the operation of said service and the authorization to do business will promote the public interests in a proper and suitable manner.

SEC. 16. *Proceedings of the Commission, upon notice and hearing.*—The Commission shall have power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:

- a. To issue certificates which shall be known as Certificates of Public Convenience, authorizing the operation of public services within the Philippines whenever the Commission finds that the operation of the public service proposed and the authorization to do business will promote the public interests in a proper and suitable manner: *Provided*, That hereafter, certificates of public convenience and certificates of public convenience and necessity will be granted only to citizens of the Philippines or of the United States or to corporations, copartnerships, associations or joint-stock companies constituted and organized under the laws of the Philippines: *Provided*, That sixty per centum of the stock or paid-up capital of any such corporation, copartnership, association or joint stock company must belong entirely to citizens of the Philippines or of the United States: *Provided*, further, That no such certificates shall be issued for a period of more than fifty years.
- b. To approve, subject to constitutional limitations, any franchise or privilege granted under the provisions of Act Numbered Six hundred and sixty-seven, as amended by Act Numbered One thousand and twenty-two, by any political subdivision of the Philippines when, in the judgment of the Commission, such franchise or privilege will properly conserve the public interests, and the Commission shall in so approving impose such conditions as to construction, equipment, maintenance, service, or operation as the public interests and convenience may reasonably require, and to issue certificates of public convenience and necessity when such is required or provided by any law or franchise.
- c. to fix and determine individual or joint rates, tolls, charges, classifications, or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed, and followed thereafter by any public service: *Provided*, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days thereafter, upon publication and notice to the concerns operating in the territory affected: *Provided*, further, That in case the public service equipment of an operator is

used principally or secondarily for the promotion of a private business, the net profits of said private business shall be considered In relation with the public service of such operator for the purpose of fixing the rates.

- d. To fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed thereafter by any public service.
- e. To ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of the product or service rendered by any public service, and to prescribe reasonable regulations for the examination and test of such product or service and for the measurement thereof.
- f. To establish reasonable rules, regulations, instructions, specifications, and standards, to secure the accuracy of all meters and appliances for measurements.
- g. To compel any public service to furnish safe, adequate, and proper service as regards the manner of furnishing the same as well as the maintenance of the necessary material and equipment.
- h. To require any public service to establish, construct, maintain, and operate any reasonable extension of its existing facilities, where, in the judgment of said Commission, such extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same, and when the financial condition of the said public service reasonably warrants the original expenditure required in making and operating such extension.
- i. To direct any railroad, street railway or traction or company to establish and maintain at any junction or point of connection or intersection with any other line of said road or track, or with any other line of any other railroad, street railway or traction company, such just and reasonable connection as shall be necessary to promote the convenience of shippers of property, or of passengers, and in like manner to direct any railroad, street railway, or traction company engaged in carrying merchandise, to construct, maintain and operate, upon reasonable terms, a switch connection with any private sidetrack which may be constructed by any shipper to connect with the railroad, street railway or traction company line where, in the judgment of the Commission, such connection is reasonable and practicable, and can be put in with safety, and will furnish sufficient business to justify the construction and maintenance of the same.
- j. To authorize, in its discretion, any railroad, street railway or traction company to lay its tracks across the tracks of any other railroad, street railway or traction company, or across any public highway.
- k. To direct any railroad or street railway company to install such safety devices or adopt such other reasonable measures as may in the judgment of the Commission be necessary for the protection of the public at passing grade crossings of (1) public highways and railroads, (2) public highways and street railways, or (3) railroads and street railways.
- l. To fix and determine proper and adequate rates of depreciation of the property of any public service which will be observed in a proper and adequate depreciation account to be carried for the protection of stockholders, bondholders or creditors, in accordance with such rules, regulations, and forms of account as the Commission may prescribe. Said rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry. Each public service shall conform its depreciation accounts to the