

RAILROAD COMMISSIONERS

CHAPTER 208.

[H. B. No. 356—Harty.]

REGULATING RATES PUBLIC UTILITY CORPORATIONS.

AN ACT Prescribing the Manner in which Rates to be Charged by Persons, Firms or Corporations for Water, Gas or Electricity for Light, Heat or Power May be Regulated and Placing Such Regulation Under the Control of the Board of Railroad Commissioners.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Whenever the City Council or Commission of any city or the governing body of any town or village, organized under the laws of the State of North Dakota, shall by vote of the majority of such body adopt a resolution or when petitioned by 20 per cent. of the qualified electors of any city, town or village in this state as to municipality owned plants, complaining that the rate charged within the municipality by any person, firm or corporation furnishing either water, gas or electricity for light, heat or power to said municipality or to the inhabitants thereof is excessive, and setting forth as near as may be the particulars wherein it is claimed that the rate charged is excessive, the auditor or other officer charged with the duties usually devolving upon a City Auditor, shall, within ten days after the adoption of such resolution forward a certified copy of the same to the Board of Railroad Commissioners for the State of North Dakota, and shall at the same time furnish to said Board of Railroad Commissioners a statement showing the names and business addresses of the persons, firms or corporations furnishing the water, gas or electricity to the said municipality or the residents thereof the price of which is complained.

2. As soon as may be after the receipt of such resolution and information provided for in Section 1 by the Board of Railroad Commissioners, the said board shall make or cause to be made a preliminary investigation of the matters complained of, and, if on such investigation such complaint appears to be well founded then the said Board of Railroad Commissioners shall fix a time for a hearing on such complaint and upon the fixing of such time shall notify the said municipality by mailing a notice to its auditor or other officer charged with the usual duties of a City Auditor and shall also notify any person, firm or corporation furnishing such water, gas or electricity the price of which is complained of, of the date and place of such hearing, giving to such parties not less than thirty days' notice thereof.

§ 3. Upon such hearing proceedings shall be had according to the general rules of procedure in equity cases and the president of the Board of Railroad Commissioners shall have power to issue process commanding the presence of witnesses who can be served within the State of North Dakota and the production of such books and records as are within their control.

§ 4. Upon the completion of such hearing the said Board of Railroad Commissioners shall make findings of fact and on such findings shall make an order fixing and establishing a just and reasonable rate as a maximum to be charged for the ensuing five years for the commodity the rate for which is then under investigation, and said board shall cause notice in writing to be given to the said municipality and to the person, firm or corporation engaged in furnishing the commodity the price of which has been so fixed, fixing the time when such rate shall take effect, which shall not be less than sixty days after the service of such notice upon such municipality and such person, firm or corporation aforesaid.

§ 5. The purpose and intent of this law is to place the regulation of the rate to be charged by persons, firms or corporations operating within the State of North Dakota and furnishing water, gas and electricity for light, heat or power to any municipality or the residents thereof under the control of the Board of Railroad Commissioners subject only to the rights of such person, firm or corporation to have the action of such board reviewed in the usual manner in an equitable proceeding in the courts of the State of North Dakota.

§ 6. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved, March 10, 1915.

CHAPTER 209.

[S. B. No. 139—Englund.]

TELEPHONE COMPANIES, PLACING UNDER CONTROL OF RAILROAD COMMISSIONERS.

AN ACT Placing Telephone Companies Under the Supervision of the Board of Railroad Commissioners, Giving said Commissioners Power to Compel Physical Connections Between Telephone Systems, to Regulate the Rates and Charges of Telephone Companies, and to Control Constructions and Operation of Telephone Plants, and Providing Penalties for the Violation of Orders Promulgated by the Board of Railroad Commissioners.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TELEPHONE COMPANY DEFINED.] The words, "telephone company," as used in this Act, shall embrace all persons, firms, corporations or other organizations engaged in the business of

furnishing means of communication by telephone, within the State of North Dakota.

§ 2. TELEPHONE COMPANIES DECLARED TO BE COMMON CARRIERS.] All persons, firms, corporations and other organizations engaged in the business of furnishing means of communication by telephone, within this state, are hereby declared to be common carriers, and the Board of Railroad Commissioners of this state is hereby given general supervision of such common carriers.

§ 3. SCHEDULES OF RATES TO BE FILED WITH THE COMMISSION.] The Commission shall have power to require every such telephone company, within such times as it shall fix and in such form and detail as it may require, to file with said Commission schedules showing all rates and charges which are established and in effect at the time, for any service rendered to the public by such telephone company within this state, and also to file with and as a part of every such schedule all rules and regulations that in any manner affect the rates charged or to be charged for such service, and such telephone company shall not thereafter make any changes in said schedules, rates or charges other than those named in said schedule, without first securing the consent of the Commission.

§ 4. SCHEDULE OF RATES TO BE ON FILE FOR PUBLIC INSPECTION.] The Commission may require any telephone company to keep on file and accessible to the public, at any city, village or town in which the telephone company has an office, a schedule of such rates and charges as the Commission may deem necessary.

§ 5. HEARING FOR CHANGE IN SCHEDULE OF RATES OR INADEQUACY OF SERVICE.] Whenever any telephone company, municipality, or twenty-five (25) patrons of a telephone company within any municipality or territory contiguous thereto, shall make complaint to the Commission of the unreasonableness or inadequacy of any rate or charge, or inadequacy of service rendered by such telephone company, the Commission shall fix a date for a hearing and give reasonable notice thereof to the parties interested and after such hearing had, shall fix a reasonable rate or schedule of rates, or order such telephone company to furnish and maintain such service as its patronage may warrant.

§ 6. DISCRIMINATION UNLAWFUL.] It shall be unlawful for any telephone company to make or give any undue or unreasonable preference or advantage to any person, firm or corporation, or to subject any person, firm or corporation to any undue or unreasonable prejudice or disadvantage in the service rendered by it to the public, or charge or receive for any such service rendered, more or less than the rates, tolls and charges provided for in the schedules then on file with the Board of Railroad Commissioners, *provided*, that nothing in this Act shall be construed to prevent any telephone company from furnishing free telephone service, or service at reduced rates to its officers, agents, servants or employees.

§ 7. THE BOARD OF RAILROAD COMMISSIONERS MAY REQUIRE

ACCOUNTS TO BE FILED AND PRESCRIBED FORMS OF BOOKS TO BE USED.] The Commission may require telephone companies to keep and render to said Commission in the manner and form prescribed by it, uniform and true accounts of all business transacted, said Commission may also prescribe the forms of all books, accounts and records required to be kept by telephone companies, and each telephone company shall keep and render its books, accounts and records accurately and faithfully in the manner and form prescribed by the Commission, and shall comply with all directions of the Commission relating to such books, accounts and records. All such books, accounts and records required to be kept and rendered to the Commission, and all books, accounts and records which the Commission shall require to be kept by such telephone company, shall conform as nearly as possible to similar forms prescribed by the Interstate Commerce Commission. Whenever the Commission shall have prescribed forms of any books, accounts and records, no telephone company shall keep any other books, accounts and records of its business than those prescribed or approved by the Commission or prescribed by the laws of the United States, except auxiliary and explanatory accounts and records. The Commission shall cause to be prepared suitable blanks for all reports required to be rendered to it, and shall furnish such blanks to each of said telephone companies.

§ 8. VALUE OF PROPERTIES MAY BE DETERMINED.] The Commission shall have power to investigate and determine the value of all the property used or useful by such telephone company, whenever it deems the determination of such value necessary in order to properly carry into effect any of the provisions of this Act. Before the final determination of the value of the property of any such carrier, the Commission shall give reasonable notice to parties interested, hold a public hearing as to such valuation at which hearing any party interested may appear and be heard. The Commission may at any time, upon its motion make a re-valuation of said property.

§ 9. PERMIT TO BE OBTAINED FOR CONSTRUCTION OF PLANTS.] No telephone company shall exercise any rights or privileges for the purpose of constructing in any town, village or city of this state any new plant, duplicating any existing plant or any part thereof, or the removal or discontinuance of any plant or any part thereof, without first having obtained the permission and approval of the Board of Railroad Commissioners.

§ 10. UNNECESSARY DUPLICATION OF EXCHANGES PROHIBITED.] Whenever any telephone company furnishes adequate service and supplies the reasonable wants of the people of the city or community in which it is operating, and complies with the orders of the Commission, said Commission shall not grant to any other telephone company the right to compete with such carrier until after a public hearing of all parties interested, and finding by the Commissioners that the public convenience and necessity may require such com-

peting plant, *provided*, that nothing in this Act shall be held to prevent any telephone company from extending its lines within the limits of any city or village in which it is at the time lawfully operating a local telephone exchange.

§ 11. PHYSICAL CONNECTION. JOINT RATES. COST OF PHYSICAL CONNECTION, AND PHYSICAL CONNECTION DEFINED.] Every telephone company shall permit a physical connection or connections to be made and furnish telephone service between its telephone system or toll lines and the telephone system or toll lines operated by another such company at any common point, providing that the construction and equipment of each company affected is such as to permit of an efficient joint service whenever public convenience and necessity requires such physical connection or connections, and such physical connection or connections will not result in the substantial injury to the owner or to the users of such telephone companies nor in any substantial detriment to the service to be rendered by such companies. The Commission shall have the power on reasonable notice and hearing as in this Act provided, to order physical connections and prescribe joint rates or charges for service by or over such connected lines, and in case such through lines and joint rates be not established by telephone companies named in any such order, within the time specified, the Commission shall have the power, by order to establish the same and fix the just and reasonable rates and charges to be charged for such through service and to declare the portion thereof to which each of said companies affected thereby shall be entitled and the manner in which the same shall be secured and paid. The cost of making such physical connection or connections shall be shared by the companies making such connection or connections in such portion as they shall agree upon or in case of disagreement the Commission shall enter an order directing one of the companies which is to be joined by physical connection with another to perform the actual work of connecting up the two lines, or telephone companies, as the case may be, and file with the Commission a statement of the cost of performing the work ordered, as soon as the work ordered shall have been completed, and after such statement has been filed the Commission shall order such company joined to pay such share of the expenses of making such connection as the Commission may deem just and reasonable. The term, "physical connection," as used in this Section shall mean such number of trunk lines or complete wire circuits and connections as may be required to furnish reasonably adequate telephone service between such different telephone companies, or different telephone systems.

§ 12. PROCEDURE OF HEARING BEFORE THE COMMISSION.] Upon the filing with the Commission of any complaint under this Act, the Commission shall fix a date for the hearing of such complaint and shall mail to the telephone company, municipality or persons against whom such complaint is made, or other persons interested

in said complaint, a copy thereof and give reasonable notice of the date set for hearing said complaint prior to such hearing, to the telephone company of which complaint is made, or any municipality or other persons who may be interested in the subject matter of said complaint, such telephone company, municipality or other persons interested may appear and make written answer thereto, and shall be entitled to be heard and introduce evidence thereon. The Commission shall have the power and upon the demand of any party appearing in said proceeding shall appoint a shorthand reporter who shall take the evidence offered or introduced at said hearing. The Commission shall have the power to require any party to said hearing, to produce any books, records, papers or other documents material to said inquiry, and shall have the power to subpoena and compel the attendance of any witnesses. At the conclusion of any hearing, the Commission shall make a finding of fact, and issue their order in accordance therewith, and such facts shall be prima facie evidence in any proceeding to enforce the order made on such hearing.

§ 13. OTHER SECTIONS WHICH MAY APPLY.] Except as otherwise provided in this Act, or except where the same may in any way conflict with any of the provisions herein contained the following Sections of the Compiled Laws of North Dakota for the year 1913, and all amendments thereof shall apply also to telephone companies, to-wit: Sections 4719, 4726, 4727, 4729, 4730, 4731, 4732, 4733, 4736, 4738, 4741, 4742, 4743, 4744, 4745, 4746, 4747, 4759, 4761 and 4763.

§ 14. PENALTY.] Whenever the Commission shall enter an order in compliance with the provisions of this Act, it shall be compulsory for such person or company upon whom such order is served to comply with said order and failing to do so, such person or company in default shall forfeit to the State of North Dakota, on suit by the State's Attorney of the county wherein such default occurred, the sum of ten dollars (\$10.00) for each and every day they so neglect to comply with such order of the Commission.

§ 15. THE WORD, "COMMISSION" DEFINED.] The word "Commission" wherever used in this Act shall mean, "The State Board of Railroad Commissioners."

§ 16. REPEAL.] All Acts or parts of Acts conflicting with the provisions of this Act are hereby repealed in so far as they are inconsistent herewith; *provided*, however, that the provisions of this Act shall not abrogate or repeal any existing powers now possessed by any city, town or village in this state.

§ 17. EMERGENCY.] Whereas, an emergency is declared to exist in this that there is now no adequate law for the control of telephone companies, this Act shall take effect and be in force immediately from and after its passage and approval.

Approved, March 1, 1915.