

other law, in so far as it is then actually being exercised for the public service, without the permission and approval of the Commission first obtained, after due hearing, and the determination by the Commission that the present or future public convenience or necessity permit of such abandonment or discontinuance of the exercise of such franchise or right.

This section referred to in construing art. 56, secs. 294-310. *Pub. Serv. Commn. v. Williams*, 167 Md. 330.

Cited in holding valid ch. 497, 1931, exempting W., B. & A. R. R. Co. *Williams v. Mayor*, 289 U. S. 45.

Approval of Public Service Commission before carrier may abandon exercise of any franchise held to apply to mere voluntary action by carrier and not to abandonment required by contract or operation of law. *Duvall Co. v. W., B. & A. Elec. R. Co.*, 60 Fed. (2nd), 315.

The commission has power to authorize the abandonment of a railroad line when continued operation must result in serious financial loss and ultimate receivership—see notes to sec. 388. *Benson v. Public Service Commission*, 141 Md. 400.

An. Code, 1924, sec. 380A. 1929, ch. 520.

**390.** In all proceedings before the Commission in which the permission, approval, authority or consent of the commission shall be applied for under the provisions of Sections 388, 389, 401, 402, and 405 of this sub-title, the commission may require that it be shown by clear and satisfactory evidence that the granting of such permission, approval, authority or consent is required by, or consistent with, the public interest, in addition to compliance with other requirements of said sections; and when such proof is required hereunder the burden of proof shall be upon the applicant.

This section referred to in construing art. 56, secs. 294-310. *Pub. Serv. Commn. v. Williams*, 167 Md. 330.

An. Code, 1924, sec. 381. 1912, sec. 439. 1910, ch. 180, sec. 27 (p. 369). 1918, ch. 408, sec. 27. 1920, ch. 474, sec. 439.

**391.** A common carrier, railroad corporation, street railroad corporation, or other corporation subject to the provisions of this sub-title, organized or existing, or hereafter incorporated, under or by virtue of the laws of the State of Maryland, may issue stock, bonds, notes or other evidence of indebtedness, payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvements of its facilities, or for the improvement or maintenance of its service, or the discharge or lawful refunding of its obligation, or for the reimbursement of moneys actually expended from income, or from any other moneys in the treasury of the corporation not secured by or obtained from the issue of stocks, bonds, notes or other evidence of indebtedness of such corporation, within five years next prior to the filing of an application with the Commission for the required authorization for any of the aforesaid purposes, except maintenance of service and except replacements, in cases where the applicant shall have kept its accounts and vouchers of such expenditures in such manner as to enable the Commission to ascertain the amount of moneys expended and the purposes for which such expenditure was made, or when necessary or desirable, in the discretion of the Commission, to cause the aggregate capitalization to conform to the fair value of the property of such corporation as established by the Commission pursuant to the provisions of Section 396; provided, and not otherwise, that there shall have been secured from the Commission an order authorizing such issue, and the amount thereof, and stating that, in the opinion of the Commission, the use of the capital to be secured by the issue of such stocks, bonds or other evidence of indebtedness is reasonably required for