

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 so 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 stock, bonds, notes or other evidences of indebtedness, is reasonably required for the said purposes of the corporation. For the purpose of enabling it to determine whether or not it should issue such an order, the Commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such gas corporation or electrical corporation may issue notes, for proper corporate purposes, and not in violation of any provision of this sub-title or any other Act, payable at periods of not more than twelve months without such consent; but no such notes shall, in whole or in part, directly or indirectly, be refunded by any issue of stock or bonds, or by any evidence of indebtedness running for more than twelve months without the consent of the Commission; provided, however, the Commission shall have no power to authorize the capitalization of any franchise to be a corporation, or to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or any political sub-division thereof as the consideration for the grants of such franchise or right. Nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporations so consolidated, at par value thereof, or such sum and any additional sum actually paid in cash, nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever, nor shall any corporation hereafter issue any bonds against a lien upon any contract for consolidation or merger.

Jurisdiction of commission begins when company starts to use its granted powers and extends to activities affecting public interest. Commission has no jurisdiction over substitution of stock of no par value for par stock. Issue of unissued shares, within this section. This section prospective, but not exclusive, in its application. *Pub. Serv. Commn. v. Consol. Gas Co.*, 148 Md. 96.

Cited but not construed in *Potomac Ed. Co. v. Pub. Serv. Commn.*, 165 Md. 472.

See notes to sec. 345, and to art. 3, sec. 33, of Constitution.

An. Code, 1924, sec. 393. 1912, sec. 448A. 1914, ch. 445, sec. 34½.

**404.** Subject in every respect to the authority and supervision conferred upon the Commission by the next preceding Section, a gas corporation or electrical corporation organized or existing or hereafter incorporated under or by virtue of the laws of the State of Maryland, may issue stocks, bonds, notes or other evidences of indebtedness, payable at periods of more than twelve months after the date thereof, when necessary for the capitalization of its earnings expended prior to the first day of April, nineteen hundred and fourteen, in the acquisition of property, the construction, completion, extension, maintenance or improvement of its facilities; provided that the applicant shall have kept its accounts and vouch-