

If the commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by the commission in the first instance.

If the original order shall not be rescinded or changed by the commission, judgment shall be rendered upon such original order.

Appeal in accordance with this section. *Public Service Comm. v. Md. Bay Co.*, 176 Md. 61.

Testimony before court transmitted to Public Service Commission pursuant to provisions of this section. *Pub. Serv. Commn. v. Williams*, 167 Md. 326.

The court in considering the question of unreasonableness of rates fixed by the commission should have before it the evidence produced before the commission. Carriers may not be required to perform services at rates less than the actual costs of such services. See notes to secs. 376 and 419. *Public Serv. Com. v. N. C. Rwy. Co.*, 122 Md. 387.

Cited in *P. S. C. v. Lichtenberg*, *Daily Record*, Mar. 13, 1939.

See notes to secs. 344, 388 and 415.

An. Code, 1924, sec. 406. 1912, sec. 458A. 1914, ch. 445, sec. 44j.

**417.** Before the trial of such action a transcript duly certified by the Secretary of the Commission of all the papers and proceedings, including evidence, in the case before the Commission except such as are omitted by the stipulation in writing of the parties to such action, shall be filed by the Commission in such action and shall be evidence in like manner as the originals transcribed.

See notes to sec. 415.

An. Code, 1924, sec. 407. 1912, sec. 459. 1910, ch. 180, sec. 45 (p. 389).

**418.** Either party to said action, within twenty days after service of a copy of the order or judgment of any court of Baltimore City or of the circuit court of any county, may appeal to the court of appeals of Maryland. Where an appeal is taken the cause shall, on the return of the record of the proceedings to the court of appeals of Maryland, be immediately placed on the docket of the then pending term of the court of appeals, and shall be assigned and brought to a hearing in the same manner as other causes on the docket.

This section referred to in connection with the power of the commission under sec. 386—see notes thereto. *N. C. Rwy. Co. v. Public Serv. Com.*, 124 Md. 147.

Objection that bill of complaint attacking order of P. S. C. was not filed within 60 days is not available in Court of Appeals if not raised in court below. *Purnell v. Ocean City*, 162 Md. 174.

The service of a copy of the order is not a condition precedent to the right of appeal. *Purnell v. Ocean City*, 162 Md. 175.

Cited in *Public Service Comm. v. Md. Bay Co.*, 176 Md. 64.

Cited in *Zoning Appeals Board v. McKinney*, 174 Md. 561.

See notes to secs. 305, 344 and 415.

An. Code, 1924, sec. 408. 1912, sec. 460. 1910, ch. 180, sec. 46 (p. 389).

**419.** In all trials, actions and proceedings arising under the provisions of this sub-title, or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to such commission, or seeking to set aside any determination, requirement, direction or order of said commission, to show by clear and satisfactory evidence that the determination, requirement, direction or order of the commission complained of is unreasonable or unlawful, as the case may be.

Order of commission will not be disturbed except upon clear and satisfactory evidence that it is unreasonable or unlawful; competitive territory; order upheld. This