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CORPORATION, NEWLY FORMED—ORGANIZED TO OPERATE AS MOTOR TRANSPORTATION COMPANY OR AS ANY OTHER FORM OF PUBLIC UTILITY—REQUIRED IN ISSUANCE OF SECURITIES TO COMPLY WITH OHIO SECURITIES ACT AND PUBLIC UTILITY LAWS—TIME IT ACTUALLY OWNS OR COMMENCES TO OPERATE PUBLIC UTILITY—WHEN SECURITIES EXEMPTED—PUBLIC UTILITIES COMMISSION OF OHIO HAS EXCLUSIVE SUPERVISION AND CONTROL OF SECURITIES—SECTION 8624-2, SUBSECTION 13, 8624-3, SUBSECTION 5 G. C.

SYLLABUS:

A newly formed corporation organized to operate either as a motor transportation company or as any other form of public utility as defined in subsection 13 of Section 8624-2, General Code, is required, with respect to the issuance of its securities, to comply with both the Ohio Securities Act and the laws relating to public utilities until such time as it actually owns or commences to operate such public utility, after which time its securities are exempted by the provisions of subsection 5 of Section 8624-3, General Code, and the Public Utilities Commission of Ohio has exclusive supervision and control of its securities.

Columbus, Ohio, July 20, 1943.

Hon. Paul L. Selby, Chief of Division of Securities,
Columbus, Ohio.

Dear Sir:

Your request for my opinion reads as follows:

“We desire your official opinion as to the jurisdiction of the Division of Securities with respect to the registration of securities being or to be offered or sold by the issuers of such securities in the event such issuers of securities are being organized for the purpose of owning or operating a public utility, or is the owner and operator of a public utility.

The Ohio Securities Act requires that all securities, except those enumerated in Section 8624-3, General Code, and all transactions except those permitted in Section 8624-4, General Code, shall, before being sold in this state, be registered or qualified in the manner provided in the Ohio Securities Act.

Section 8624-3, among other things, provides:

'The following securities shall be exempt from the provisions of sections (8624-) 8, 9, 10, 13, 14 and 41 hereof, and the requirements therein set forth need not be complied with * * *.

'(5) Any security, issued or guaranteed as to principal or interest or dividend by a corporation owning or operating any public utility, provided, that such corporation is, as to its rates and charges or as to the issuance and guaranteeing of securities, under the supervision of or regulated by a public commission, board or officer of the United States, or of any state thereof, or municipality therein, or of the Dominion of Canada or any province thereof, or municipality therein; equipment trust securities based on chattel mortgages, leases or agreements for conditional sale of cars, locomotives, motor trucks or other rolling stock, or motor vehicles mortgaged, leased or sold to or furnished for the use of a public utility; or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the laws of the United States or of any state, or of the Dominion of Canada or any province thereof, to secure the payment of such securities.'

Section 614-74, General Code, provides:

'Companies formed to acquire property or to transact business which would be subjected to the provisions of this act, and companies owning or possessing franchises for any of the purposes contemplated by this act, shall be deemed and held to be subject to the provisions of this act, although no property may have been acquired, business transacted or franchises exercised.'

Section 614-1 et seq., General Code, and kindred and allied sections confer upon the Public Utilities Commission jurisdiction over 'motor transportation company' and 'common carrier by motor vehicle' and other public utilities.

Your attention is also directed to Section 614-53, General Code, as to the jurisdiction of the Public Utilities Commission of Ohio with respect to the issuance of stocks, bonds, notes, etc.

The uncertainty which gives rise to this request for an official opinion arises with respect to the status of a newly formed corporation or other entity which proposes to engage in the motor transportation business or gas and oil drilling operations or operation of other public utility, but is not in a position to make formal application to the Public Utilities Commission for appropriate certificates until the organization of the entity has been effected, which includes the offer, issuance and sale of securities.

In many cases, application for registration of such securities is filed with the Division of Securities. In other cases, the attorneys make no filing with the Division of Securities upon the assumption that sole jurisdiction with respect to the issuance and sale of such securities is vested in the Public Utilities Commission. In other cases the confusion as to jurisdiction results in non-compliance by the issuer with any administrative authority.

We therefore request your official opinion as to the respective jurisdictions of the Division of Securities and the Public Utilities Commission as to:

1. Should registration of securities of a newly formed corporation be effected with the Division of Securities in the case of the formation of a new corporation or other business entity which proposes to make application to the Public Utilities Commission for certificates of convenience and necessity as a motor transportation company either as a common carrier or as a private contract carrier or intends otherwise to qualify as a utility within the jurisdiction of the Public Utilities Commission?

2. Does the Public Utilities Commission have jurisdiction over such a company from the time the Articles of Incorporation have been filed within the intent, meaning and purpose of Sections 8624-3(5), 614-53, 614-74, and allied sections?

3. Are such issuers of securities required to comply with registration requirements in both the Division of Securities and in the Public Utilities Commission in the event organization is effected and securities issued prior to the making of any application to the Public Utilities Commission but appropriate application is thereafter made by the newly formed entity to the Public Utilities Commission?

4. If in your opinion, registration of such securities with the Division of Securities is required, does the Division of Securities continue to have all of the administrative powers conferred upon it by the Ohio Securities Act with respect to such securities and the sale thereof including the power of enforcement of registration requirements, powers of investigation (Sec. 8624-28, G. C.), suspension (Sec. 8624-16, G. C.), and criminal (Sec. 8624-25, G. C.)?

5. If in your opinion, such securities are exempt from registration requirements under the Ohio Securities Act, does the Division of Securities have the other administrative powers and duties conferred upon it by the provisions of Sections 8624-16, 28, 25 and related sections with respect to such securities?"

In the case of *Groby v. State*, 109 O. S., 543, Judge Matthias said with reference to the former Blue Sky Law (Sections 6373-1 to 6373-24, both inclusive, General Code):

“This legislation was enacted for the obvious purpose of guarding investors against fraudulent enterprises, to prevent sales of securities based only on schemes purely speculative in character, and to protect the public from swindling peddlers of worthless stocks in mere paper corporations.”

This language was adopted and quoted with approval by the Court of Appeals in the case of *Sellers v. State*, 18 O. L. Abs., 328, which case involved a consideration of the present Ohio Securities Act (Sections 8624-1 to 8624-49, both inclusive, General Code). Thus, it appears that for the purpose of affording a reasonable amount of protection to the investing public a governmental agency has been established with power to make investigation and generally supervise the issuing of securities in Ohio by all persons.

The term “person,” as used in the Act, has been defined in Sub-section 4 of Section 8624-2, General Code, wherein it is said:

“(4) ‘Person,’ shall mean and include a natural person, firm, copartnership, limited partnership, partnership, association, syndicate, joint stock company, unincorporated organization or association, trust, trustee of a trust (excepting a trust created or a trustee designated by law or by a will or by judicial authority), and a corporation organized under the laws of any state or of any foreign government, or political subdivision thereof.”

In substance, the Act provides for the registration of securities, the registration of transactions in securities and licensing of dealers and salesmen. The Act applies to all persons, securities and transactions in securities with certain exceptions which are listed in detail.

In order to secure compliance with the several provisions of the Act, criminal penalties are provided in Section 8624-25, General Code, which section, so far as appears pertinent, is as follows:

“* * * Whoever knowingly and intentionally sells or causes to be sold or offers for sale or causes to be offered for sale in this state any securities:

(a) Which are not exempt under the provisions of section 8624-3 nor the subject matter of one of the transactions exempted in sections 8624-4 or 8624-4a or which are not the subject matter of a transaction exempt by reason of section

8624-49, unless such securities have been registered by description or qualified, or are the subject matter of a transaction that has been so registered by description or

(b) In respect to which the fees for registering by description or qualifying prescribed by this act have not been paid.
* * *

Shall be deemed guilty of a violation of this act, and upon conviction therefor shall be imprisoned in the penitentiary not more than five years, or fined in a sum not exceeding \$5,000, or both.

In any indictment, complaint or information hereunder, it shall not be necessary to negative the existence of facts which would bring a security within the provisions of sections 8624-3 or 8624-5, or would bring a transaction within the provisions of sections 8624-4, 8624-4a or 8624-6, or to negative existence of facts which would bring a transaction within the exceptions of section 8624-47 or of section 8624-49, and the burden of proof shall be upon the party claiming the benefits of any such section."

Section 8624-3, General Code, provides for the exemption of several types of securities, including the following:

"The following securities shall be exempt from the provisions of sections 8, 9, 10, 13, 14 and 41 hereof, and the requirements therein set forth need not be complied with. * * *

(5) Any security, issued or guaranteed as to principal or interest or dividend by a corporation owning or operating any public utility, provided, that such corporation is, as to its rates and charges or as to the issuance and guaranteeing of securities, under the supervision of or regulated by a public commission, board or officer of the United States, or of any state thereof, or municipality therein, or of the Dominion of Canada or any province thereof, or municipality therein; equipment trust securities based on chattel mortgages, leases or agreements for conditional sale of cars, locomotives, motor trucks or other rolling stock, or motor vehicles mortgaged, leased or sold to or furnished for the use of a public utility; or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the laws of the United States or of any state, or of the Dominion of Canada or any province thereof, to secure the payment of such securities. * * *"

For the purposes of the Act, a public utility is defined in subsection 13 of Section 8624-2, General Code, as follows:

"The following terms shall, unless the context otherwise indicates, have the following respective meanings: * * *

(13) 'Public utilities' shall mean and include those utilities defined in sections 501, 502, 614-2 and 614-2a of the General Code and any amendments or supplements thereto, or, in the case of a foreign corporation, then as defined as public utilities by the laws of its domicile, or, in the case of any other foreign issuer, then as defined as public utilities by the laws of the situs of its principal place of business (always including railroads whether or not defined as public utilities)."

Sections 501 and 502, General Code, deal with railroads, concerning which you have made no mention in your inquiry.

Section 614-2, General Code, defines various words and phrases as used in the public utility statutes. Said section reads as follows:

"The following words and phrases used in this chapter unless the same is inconsistent with the text, shall be construed as follows:

The term 'commission' when used in this act, or in chapter one, division two, title three, part first of the General Code (§487 et seq.) and the acts amendatory or supplementary thereto means 'the public utilities commission of Ohio.'

The term 'commissioner' means one of the members of such commission.

Any person or persons, firm or firms, copartnership or voluntary association, joint stock association, company or corporation, wherever organized or incorporated:

When engaged in the business of transmitting to, from, through or in this state, telegraphic messages, is a telegraph company;

When engaged in the business of transmitting to, from, through or in this state, telephonic messages, is a telephone company, and as such is declared to be a common carrier;

When engaged in the business of carrying and transporting persons or property, or both, or of providing or furnishing such transportation service, for hire, in or by motor propelled vehicles of any kind whatsoever, including trailers for the public in general, over any public street, road or highway in this state, except otherwise provided in section 614-84, is a motor transportation company;

The term 'motor propelled vehicle,' when used in this chapter means any automobile, automobile truck, motor bus, or any other self-propelled vehicle not operated or driven upon fixed rails or track;

When engaged in the business of supplying electricity for light, heat or power purposes to consumers within this state, is an electric light company;

When engaged in the business of supplying artificial gas for lighting * * * is a gas company * * *

When engaged in the business of supplying natural gas for lighting * * * is a natural gas company * * *

When engaged in the business of transporting natural gas or oil through pipes or tubing, either wholly or partly within this state, is a pipe line company;

When engaged in the business of supplying water through pipes or tubing, or in a similar manner to consumers within this state, is a water works company;

When engaged in the business of supplying water, steam or air through pipes or tubing to consumers within this state for heating or cooling purposes, is a heating or cooling company;

When engaged in the business of supplying messengers for any purpose, is a messenger company;

When engaged in the business of operating as a common carrier a railroad, wholly or partly within this state with one or more tracks upon, along, above or below any public road, street, alleyway or ground, within any municipal corporation, operated by any motive power other than steam, and not a part of an interurban railroad, whether such railroad be termed street, inclined plane, elevated or underground railroad is a street railroad company;

When engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad is a suburban railroad company;

When engaged in the business of operating a railroad, wholly or partially within this state, with one or more tracks from one municipal corporation * * * is an interurban railroad company * * *

From the above, it will be noted that in defining the several types of utilities, their activities are described in the present tense. They must actually be engaged in one of the described businesses to meet with the requirements of the statute. Returning to a further consideration of subsection 5 of Section 8624-3, General Code, it should be noted that the present tense is also used there. The exemption applies only to corporations owning or corporations operating public utilities. The securities of such corporations are exempted, thereby constituting an exception to the general provisions of the Ohio Securities Act.

The rule for interpreting exceptions was stated by Judge Wanamaker in the case of *State, ex rel. Keller, v. Forney*, 108 O. S., 463, as follows:

“The rule is well and wisely settled that exceptions to a general law must be strictly construed. They are not favored in law, and the presumption is that what is not clearly excluded from the operation of the law is clearly included in the operation of the law.”

Applying this rule, we reach the conclusion that a corporation of the type here under consideration, even though it may be organized with power to operate a public utility, must comply with the requirements of the Ohio Securities Act until such time as it actually owns or commences the operation of a public utility, the rates and charges of which or the issuance and guaranteeing of the securities of which are under supervision of the Public Utilities Commission of Ohio or such commissions, boards or officers as are mentioned in subsection 5 of Section 8624-3, General Code.

Section 8624-28, General Code, provides:

“Whenever it shall appear to the division either from its files, upon complaint, or otherwise, that any person has engaged in, is engaged in, or is about to engage in, any practice declared to be illegal or prohibited by this act, or defined as fraudulent anywhere in this act, or any other deceptive scheme or practice in connection with the sale of securities, or when the division believes it to be in the best interests of the public and necessary for the protection of investors, the division is hereby given the power and authority to:

(a) Require any person to file with it on such forms as it may prescribe, an original or additional statement or report in writing, under oath or otherwise, as to any facts or further facts or circumstances concerning the issuance, sale, or offer for sale of securities within this state by said person, and such other data and information as it may deem relevant or material thereto.

(b) Examine any seller, dealer, salesman or issuer of any such securities and any agents, employees, partners, officers, directors, members or shareholders thereof, under oath; and examine such records, books, documents, accounts and papers as the division may deem relevant or material to the inquiry.

(c) To require the attendance of such witnesses and the production of such books, records and papers, as may be required either by the division or by any party to a hearing before the division, and for that purpose may issue a subpoena for any witness or a subpoena duces tecum, to compel the production of any books, records or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in criminal cases is served and returned.

The fees and mileage of the sheriff and witnesses shall be the same as that allowed in the common pleas court in criminal cases. Fees and mileage shall be paid from the funds of the division; provided, however, that no witness subpoenaed at the instance of parties other than the division shall be entitled to compensation from the state for attendance or travel unless the division shall certify that his testimony was material to the subject matter of the hearing.

(d) Proceed under Section 8624-22 to suspend the license of any licensed dealer or salesman and ultimately, if it so determines, to revoke such license as therein set forth.

(e) Initiate criminal proceedings under Section 8624-25 by laying before the prosecuting attorney of the proper county any evidence of criminality which shall come to its knowledge. In the event of the neglect or refusal of the prosecuting attorney to institute and prosecute such violations, the division shall submit such evidence to the attorney general, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

(f) Require any or all dealers forthwith to furnish to the division a copy of prospectuses, circulars or advertisements respecting securities, which they may publish or generally distribute.

(g) Require any or all dealers to mail to the division notices of intention to sell prior to the sale thereof in respect of all securities which are not exempt under Section 8624-3 or which are sold in transactions not exempt under Section 8624-4 or Section 8624-4a."

Since the provisions of the act relative to the regulation of securities

and transactions in securities apply to all persons except those specifically exempted, they must apply to a corporation incorporated for the purpose of owning or operating a public utility prior to the time it actually owns or operates such utility, there being no exemption prior to that time.

If it comes to the attention of the Division of Securities that such a corporation has or is engaged or is about to engage in any practice prohibited by the Ohio Securities Act, then the Division of Securities must have all the power and authority provided by Section 8624-28, General Code. This power and authority which the section has specifically provided, includes the right to initiate criminal proceedings under Section 8624-25, General Code. No specific reference is made in Section 8624-28, General Code, to Section 8624-16, General Code, or the right of the Division of Securities to suspend and revoke registrations, but ample authority appears to be found in the section itself, for it is therein provided as follows:

“The division may suspend the registration by description or by qualification of any securities, or the right of any or all dealers and/or the issuer, to buy, sell or deal in any particular security whether the same be registered or qualified or exempt or whether the transactions therein be registered or exempt, if the division finds that the issuer has violated any of the provisions of this act or any lawful order or requirement of the division, or has fraudulently conducted its business, or has been or is engaged or is about to engage in deceptive or fraudulent acts, practices or transactions, or if the division finds that such security is being disposed of or purchased on grossly unfair terms or in such manner as to deceive or defraud, or tend to deceive or defraud, purchasers or sellers, or in disregard of the lawful rules and regulations of the division applicable to such security or transactions therein, or, in the case of securities being sold under a registration or qualification, that the issuer is insolvent. Notice of such suspension shall be mailed by the division to the issuer and to all licensed dealers concerned. Such notice shall specify the particular security and shall set a date for a hearing on the continuation or revocation of such suspension not later than ten (10) days from the date of the order of suspension. For good cause the division may continue such hearing on application of any interested party. In conducting such hearing the division shall have all of the authority and powers set forth in Section 8624-28. Following such hearing the division shall either confirm or revoke such suspension. No suspension shall invalidate any sale of securities made prior thereto; provided, however, that the rights of persons defrauded by any sale shall in no wise be impaired.

If the issuer of a security shall refuse to permit an examination to be made by the division of its books, records and property, or shall refuse to furnish the division any information

which it may lawfully require under the provisions of this act, such refusal shall be a sufficient ground for the division to suspend the registration by description or by qualification or the right of any or all dealers and/or the issuer to buy, sell or deal in such security.

If any interested party shall desire an investigation at a place other than the office of the division such person may be required by the division to advance sufficient funds to pay the actual expenses of such investigation.

Whenever the division shall determine, upon hearing, that any application for qualification was made or that any securities were, or transaction was, registered by description by a person who knew that untrue statements were contained therein, the division may proceed under Sections 8624-22, 8624-25 and/or 8624-28, against the person who filed such application, or filed such registration by description."

If the securities of the corporation in question are required to be registered, as I have previously concluded, then it logically follows that if any of the enumerated violations occur, the Division of Securities may, after proper hearing, suspend or revoke the previous registration. After the corporate affairs of such corporation have progressed to the point that it owns or operates a public utility, since the Public Utilities Commission of Ohio has the power and duty to supervise and regulate its rates and charges, as well as the issuance and guaranteeing of its securities, the corporation is then entitled to have its securities exempted under authority of Subsection 5 of Section 8624-3, General Code, and the Division of Securities is thereupon relieved of the duty to supervise and control the issuance of the corporation's securities.

In providing for the powers and duties of the Public Utilities Commission of Ohio over the financial structures of public utilities, Section 614-8, General Code, provides:

"The commission shall have general supervision over all public utilities within its jurisdiction as hereinbefore defined, and shall have the power to examine the same and keep informed as to their general condition, their *capitalization*, their franchises and the manner in which their properties are leased, operated, managed, and conducted with respect to the adequacy or accommodation afforded by their service, and also with respect to the safety and security of the public and their employes, and with respect to their compliance with all provisions of law, orders of the commission, franchises and charter requirements. The commission, either through its members or inspectors or employes, duly authorized by it, may enter in or upon, for purposes of inspection, any property, equipment, building, plant, factory, office,

apparatus, machinery, device and lines of any public utility.”
(Emphasis added.)

Section 614-53, General Code, deals with the issuance of securities by public utilities and reads as follows:

“A public utility or a railroad, as defined in this act, may, when authorized by order of the commission, and not otherwise, issue stocks, bonds, notes and other evidences of indebtedness, payable at periods of more than twelve months after date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities or for the improvement or maintenance of its service, or for the reorganization or readjustment of its indebtedness and capitalization, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility or railroad not secured or obtained from the issue of stocks, bonds, notes or other evidences of indebtedness of such public utility or railroad within five years next prior to the filing of an application therefor as herein provided, or 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 money so expended and the purposes for which said expenditure was made.

The commission may, by order duly made, authorize the issue of bonds, notes, or other evidences of indebtedness, for the reimbursement of money heretofore actually expended from income for any of the aforesaid purposes, except maintenance of service and replacements prior to five years next preceding the filing of an application therefor, if such application for such consent be made prior to January 1, 1913. Any bonds, notes, or other evidences of indebtedness, payable at periods of more than twelve months after date thereof, may be issued as herein provided, regardless of the amount of the capital stock of the public utility or railroad, subject to the approval of the commission to the excess of such bonds, notes, or other evidences of indebtedness above the amount of the capital stock of such public utility or railroad, notwithstanding any provisions of the General Code of Ohio now in force to the contrary.

Provided, however, that it shall be the duty of the commission to authorize on the best terms obtainable, such issues of stocks, bonds and other evidence of indebtedness as shall be necessary to enable any public utility to comply with the provisions of any contract heretofore made between such public utility and any municipality.”

The procedure for obtaining authority to issue such securities is

detailed in Sections 614-54 and 614-55, General Code. In the latter section, it is also provided that:

"All stocks, bonds, notes or other evidence of indebtedness, issued by any public utility or railroad without the consent or permission of the commission, as herein provided, shall be void and of no effect."

These sections standing alone might be construed to apply only to entities that had actually commenced their operations as public utilities, but such construction is precluded by the provisions of Section 614-74, General Code, which clearly relates to the entire act and is as follows:

"Companies formed to acquire property or to transact business which would be subjected to the provisions of this act, and companies owning or possessing franchises for any of the purposes contemplated by this act, shall be deemed and held to be subject to the provisions of this act, although no property may have been acquired, business transacted or franchises exercised."

Thus, it appears that if a corporation is formed for the purpose or even partial purpose of operating a public utility, in addition to complying with the provisions of the Ohio Securities Act, such corporation is subject to the provisions of the Ohio public utilities laws. This construction gives full effect to both acts and avoids the disfavored view that one of the acts has been superseded or impliedly repealed by the other. The foregoing conclusion is strengthened by the statutes dealing specifically with motor transportation companies. In Section 614-84, General Code, which is a definition section, it is said:

"(a) The term 'motor transportation company', or 'common carrier by motor vehicle', when used in this chapter, shall include, and all provisions of law regulating the business of motor transportation, the context thereof notwithstanding, shall apply to every corporation, company, association, joint stock association, person, firm or copartnership, their lessees, legal or personal representatives, trustees, receivers or trustees appointed by any court whatsoever, when engaged, or *proposing to engage*, in the business of transporting persons or property, or both, or of providing or furnishing such transportation service, for hire, whether directly or by lease or other arrangement, for the public in general, in or by motor propelled vehicles of any kind whatsoever, including trailers, over any public highway in this state; provided, however, that the term 'motor transportation company' as used in this chapter shall not include any person or persons, firm or firms, copartnership or voluntary association, joint stock association, company or corporation, wherever organized or incorporated:

(1) Engaged, or *proposing to engage*, as a private motor

carrier as defined by section 614-103 of the General Code; * * *

(Emphasis added.)

Section 614-85, General Code, prohibits motor transportation companies from operating motor vehicles on the highways without compliance "with the provisions of this chapter." Sections 614-87 and 614-88, General Code, require a motor transportation company to obtain a certificate of public convenience and necessity before it shall commence its operations as such in this state. Section 614-90, General Code, states the rules governing an application for a certificate of public convenience and necessity. In this application, information is required "concerning the physical property used *or to be used* by the applicant" and "the complete route over which the applicant operates *or desires to operate*." Almost identical provisions are found in Sections 614-103 to 614-109, both inclusive, General Code, which deal with private motor carriers and the issuing of permits to operate as such.

After giving full consideration to the foregoing, I have come to the conclusion and it is my opinion that a newly formed corporation organized to operate either as a motor transportation company or as any other form of public utility as defined in subsection 13 of Section 8624-2, General Code, is required, with respect to the issuance of its securities, to comply with both the Ohio Securities Act and the laws relating to public utilities until such time as it actually owns or commences to operate such public utility, after which time its securities are exempted by the provisions of subsection 5 of Section 8624-3, General Code, and the Public Utilities Commission of Ohio has exclusive supervision and control of its securities.

Respectfully,

THOMAS J. HERBERT,
Attorney General.