

OPINION NO. 75-013

Syllabus:

1. The records of the Public Utilities Commission may be reproduced on microfilm or similar process, pursuant to R.C. 9.01.

2. Original records of the Public Utilities Commission which have been reproduced on microfilm pursuant to R.C. 9.01 may be destroyed with the permission of the State Records Commission, pursuant to R.C. 149.37.

3. Microfilmed copies of official records, made pursuant to R.C. 9.01, have the same effect at law as the original records, and may be used for all official purposes.

To: Carl R. Johnson, Chairman, Public Utilities Commission, Columbus, Ohio
By: William J. Brown, Attorney General, March 13, 1975

I have before me your predecessor's request for a formal opinion which reads, in part, as follows:

"The Public Utilities Commission is presently considering a proposal whereby the Commission's original files would be microfilmed and such originals subsequently destroyed.

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"* * * Miniaturization of records would be of little use if the original record had to be preserved. Accordingly, the Commission requests your opinion in regard to the following questions:

"1. Do the present laws of Ohio permit the Public Utilities Commission to reproduce original files by a microfilm process or other equivalent procedures?

"2. After the original files have been microfilmed, when, and how, may such original files be destroyed?

"3. Is it permissible to utilize copies of the microfilm for the original papers, for purposes of review by the Supreme Court of Ohio pursuant to Section 4903.21, Revised Code, or for bringing an action to enforce an order of the Commission pursuant to 4905.60, Revised Code?"

Authority to microfilm official records and documents is granted by R.C. 9.01 to any officer, commission, etc. of the state, a county, or a political subdivision, who has the duty to keep such documents or records. Whenever it is deemed necessary or advisable, the responsible official may reproduce such documents or records on microfilm, or other photographic or photostatic process, "for the purpose of recording or copying, preserving, and protecting the same, reducing space required for storage or any similar purpose * * *." Requirements for type of film, storage, and accessibility are set forth. Thus, in answer to your first question, the Public Utilities Commission has express statutory authority to reproduce original files on microfilm or similar process.

Permission to destroy microfilmed records must be obtained from the State Records Commission, pursuant to R.C. 149.37. You will note that this Section refers expressly to records which have been reproduced pursuant to R.C. 9.01. The destruction of records subsequent to microfilming has been discussed in several Opinions of my predecessors. See, e.g., 1961 Op. Att'y Gen. No. 2129, p. 184, and 1951 Op. Att'y Gen. No. 679, p. 398.

Finally, you inquire whether microfilmed records may be used for purposes of review by the Ohio Supreme Court, or for bringing an action to enforce an order of the Commission. R.C. 9.01, discussed previously, reads in part as follows:

"* * * When so recorded, or copied or reproduced to reduce space required for storage or filing of such records, said photographs, microphotographs, microfilms, or films, or prints made therefrom, when properly identified by the officer by whom or under whose supervision the same were made, or who has the custody thereof, have the same effect at law as the original record or of a record made by any other legally authorized means, and may be offered in like manner and shall be received in evidence in any court where such original record, or record made by other legally authorized means, could have been so introduced and received. Certified or authenticated copies or prints of such photographs, microphotographs, films, or microfilms shall be admitted in evidence equally with the original photographs, microphotographs, films, or microfilms."

Thus, the microfilmed records of the Commission "have the same effect at law as the original record." They may therefore be used for all official purposes, including Supreme Court review pursuant to R.C. 4903.21 and enforcement of Commission orders pursuant to R.C. 4905.60. The same result could be reached under R.C. 2317.41, mentioned in your letter, because the originals have been "destroyed or otherwise disposed of in good faith in the regular course of business * * *." Therefore, the microfilm would be admissible in court.

In specific answer to your questions, it is my opinion and you are so advised that:

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2. Original records of the Public Utilities Commission which have been reproduced on microfilm pursuant to R.C. 9.01 may be destroyed with the permission of the State Records Commission, pursuant to R.C. 149.37.
3. Microfilmed copies of official records, made pursuant to R.C. 9.01, have the same effect at law as the original records, and may be used for all official purposes.