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STATE RAILROAD
COMMISSION
of
COLORADO
1907-1908

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First Annual Report

OF THE

State Railroad Commission

OF

COLORADO

From June 20th, 1907, to January 1st, 1909

SEP 23 1915



DENVER, COLORADO
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LETTER OF TRANSMITTAL.

Denver, Colo., January 1, 1909.

HONORABLE HENRY A. BUCHELT,

Governor of Colorado,

State Capitol, Denver, Colorado.

Sir—We have the honor to submit herewith a report of the proceedings of the State Railroad Commission of Colorado for the years 1907 and 1908, under the "Act to regulate Common Carriers in this State," which became effective June 20, 1907.

Respectfully,

FREDERICK J. CHAMBERLIN, President,
HALSTED L. RITTER,
BULKELEY WELLS, Secretary,
Commissioners.

EDWARD O. ALSTON, Clerk.

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REPORT.

HISTORY OF LEGISLATION REGULATING TRANSPORTATION LINES IN COLORADO.

The theory of a reasonable control of common carriers is not of recent origin in Colorado. As early as 1862 the Territorial Legislature passed an act relating to corporations, including those engaged in constructing and operating wagon and rail roads, and in a provision of this act, which prescribed the maintenance of toll roads in good repair, and withheld the right to collect toll and fixed a penalty if they were not so kept, the foundation was laid for later legislation designed to secure the proper maintenance of road beds of railroads and the rendering of good service to the public.

In 1867 another act, of similar intent and more specific terms, was passed.

The Constitution of the State of Colorado, adopted in 1876, has the following provisions, directly relating to railroads (Mills' Annotated Statutes, Vol. 1):

493, Section 3. "The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revokable at the adoption of the Constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the incorporators."

494, Section 4. "All railroads shall be public highways and all railroad companies shall be common carriers."

495, Section 5. "No railroad corporation or the lessees or managers thereof shall consolidate the stock, property or franchises with any other railroad corporation owning or having under its control a parallel or competing line."

496, Section 6. "All individuals, associations and corporations shall have signal rights to have persons and property transported over any railroad in this State and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within

the State, and no railroad company nor any lessee, manager or employe thereof, shall give any preference to individuals, associations or corporations in furnishing cars or motive power."

499, Section 9. "No corporation shall issue stocks or bonds, except for labor done, services performed or money or property actually received, and all fictitious increase of stock or indebtedness shall be void."

In 1881 an act was passed requiring every railroad company to keep an agent in the principal town or city along its line in this State, to adjust and settle claims for overcharges and for all loss or damage. The penalty fixed for failure to comply was a fine of \$3,000.00 for each month of neglect. A further provision of this act, which is still in force, prescribed the settlement by railroad companies of all claims within sixty days after presentation.

In 1883 an act was passed providing that no railroad corporation transacting its own express business, or express company doing business, in this State shall charge, demand or receive from any shipper more than double first-class freight rates, and "All individuals, associations and corporations shall have equal rights to have their express, freight and material transported over such railroads in this State."

In 1885 the Legislature established a Railroad Commission consisting of but one member, and granted him extensive powers. The act required the Commissioner to make a report annually to the Governor, but in the eight years prior to the repeal of the act in 1893, but two reports were rendered, and, so far as the records show, little was accomplished.

In March, 1907, the Sixteenth General Assembly of Colorado passed an act, entitled "An Act to regulate Common Carriers in this State," providing for three commissioners. It is considered a conservative law by authorities who have classified the railroad laws of the various states. It has no radical features, but is sufficiently comprehensive to enable the Commission, created by it, to meet effectively the conditions affecting the public in its dealings with the railroads.

REVIEW OF THE WORK OF THE COMMISSION.

The act became effective, by law, on June 20, 1907, and the Commissioners appointed by the Governor, as provided in the act, Frederick J. Chamberlin, Halsted L. Ritter and Bulkeley Wells, immediately entered upon the discharge of their duties. But on June 29, 1907, a large number of the railroad companies operating in this State instituted quo warranto proceedings against the Commission in the District Court of the Second Judicial District; and on July 29, 1907, that court held the act creating the Commission was unconstitutional, and a judgment of ouster was entered against the members of the Commission. The case was appealed to the Supreme Court of Colorado, and on June 1, 1908, that court ordered the District Court to dismiss the case without prejudice. For practically a year the Commission was thus without power to enforce orders, and could concern itself only with the collecting of data and information regarding the physical condition of the railroads and their equipment, and the most general causes of complaint advanced by the traveling and shipping public.

On August 3, 1908, the railroads of this State brought suit in the United States Circuit Court, again attacking the constitutionality of the act creating the Commission. No hearing has yet been had in this action, and the fact that it is pending has enabled the railroad companies to neglect to comply freely and fully with the provisions of the act, and necessarily has seriously handicapped the Commission in its work. A number of railroads against which formal complaints were filed with the Commission have answered upon notice and have appeared by counsel at hearings held by the Commission thereon, but in every instance with the reservation that their action in so doing was not to be construed as a recognition of the constitutionality of the act, or of the right of the Commission to take any action whatever, both being specifically denied, but was taken solely out of respect for the Commission.

In view of the action brought by the railroads, attacking the constitutionality of the act, the State Treasurer declined to honor warrants drawn by the Commission for the salaries of the Commissioners and the employes of the Commission, and for the expenses of the Commission in carrying on its work. The Commission and its employes therefore drew no compensation from June, 1907, to July, 1908, when the State Treasurer

agreed to accept bond from the Commissioners to protect himself against legal action for disbursements under an act which had been declared unconstitutional by a District Court. The Commissioners and employes thereupon executed a joint bond in the sum of \$40,000.00, and were thus enabled to proceed more actively in the performance of the duties prescribed in the act.

Copies of all circulars issued by the Commission will be found appended to this report.

Circular No. 1 gives in full the law creating the State Railroad Commission and the Rule of Procedure established by the Commission as to filing of complaints. Copies of this circular were freely distributed, and were mailed to six thousand shippers in the State, with Circular No. 2, which was issued for the purpose of securing information upon railroad conditions from the traveling and shipping public in all sections of the State. To this circular over five hundred replies were received, and these constitute an interesting and valuable fund of information as to the directions in which relief is most desired and needed by the public in its dealings with the railroads. It seems proper and fair to state that in most instances the criticisms and complaints made do not attack the existing freight rates, which, though high in comparison with rates in many other sections of this country, are evidently not generally considered exorbitant, in view of the cost of the service rendered by the railroads in this State; but charge that the passenger and freight service given by the railroads is, in many instances, poor and inadequate. The members of the Commission have, during their term of office, traveled over a large part of the railroad systems of this State, and have become convinced that, in far too many instances, criticisms of service rendered by the railroads are well founded. As detailed knowledge of this situation was required, the Commission employed a man experienced in railroad construction and operation, recommended by the Interstate Commerce Commission, and frequently employed by it for similar purposes, to make a critical inspection of the road beds of the various railroads operating in this State, and the character of service rendered by the railroads, in both passenger and freight departments. His reports are on file at the office of the Commission in the State Capitol, and are open to the inspection of the public; they confirm the conclusion of the Commission, as above expressed. With few exceptions, the road beds of the various railroads are in excellent or in reasonably good condition, but the passenger and freight service in some sections of the State, owing to the inferior condition of the motive power and inadequate supply of locomotives and cars, is very bad. Copies of these inspection reports have been sent to the respective railroads, with request that immediate steps be taken to remedy the conditions, and the Commission hopes the needed improvements will be made.

The other circulars issued are self-explanatory.

Eleven formal complaints have been lodged with the Commission. In four cases hearings have been held, wherein decisions and orders have been made. One case has been dismissed, two have been satisfied without a hearing, and four are still pending. A statement of these cases, with the findings made, is appended hereto.

Twenty-nine informal complaints have been presented to the Commission, and, in nearly every instance, satisfied by the railroad complained against after conference with the Commission, or one or more of its members. A list of these complaints, showing the action taken in each instance, is appended hereto.

A number of the complaints received related to matters concerning interstate commerce. The Commission is without jurisdiction in such matters, but whenever the complaint has seemed well founded, the Commission has taken up the complaint in an informal manner, and in most instances relief has been obtained.

In addition to disposing of the above mentioned formal and informal complaints, the Commission has carried on a voluminous correspondence with shippers and consignees, some of whom have extraordinary views as to the duties and powers of the Commission. Many shippers ask for help in adjusting claims against railroads, but the Commission has power only to inquire into the general policy of the railroads in such matters and cannot consider individual claims. As a general rule the railroads do not unnecessarily delay the settlement of these matters.

Upon the filing of certain tariffs by the various railroads of this State with the Commission in November and December of this year, the Commission found that special rates were in force on certain commodities between certain points when consigned to specific industries or for specific use. The attention of the railroads maintaining such rates was directed to the provisions of the law, which prohibits the granting of special rates, and they were requested to make immediate showing why such rates should not be declared discriminatory. Correspondence and conferences with the officials of the railroads concerned have been had, and the Commission is waiting for further information on the subject which the railroads are to furnish.

Section 27 of the act directs that every common carrier in this State shall give immediate notice to the Commission of every accident attended by loss of life which occurs upon its lines; and makes it incumbent upon the Commission to investigate such accidents, whenever it considers that the interests of the public require such action. The railroads, with the exception of the Chicago, Rock Island & Pacific and the Denver, Northwestern & Pacific, have not complied with this provision, and have ignored the requests of the Commission for informa-

tion in regard to accidents which have come to its attention through the newspapers. The Commission understands that such action on the part of the operating heads of railroads has been taken under the advice of their legal departments, that the Commission should not be recognized in any way; but the result has been that the Commission has been unable to proceed in this important direction.

The Commission has adopted Rules of Practice, to be observed in cases and proceedings before it. A copy of these rules in full is appended hereto.

The Rules and Regulations of the Colorado Car Service Bureau have been investigated. They are in accord with Sections 23 and 24 of the act, and while they contain no provision for so-called reciprocal demurrage, as expressed in Section 25 of the act, the Commission having received no complaints under the provisions of this section, has not had occasion to require an insertion of the same.

The Commission finds that the Railroad Map of the State of Colorado, as published in 1906 by several of the State Bureaus, does not altogether answer the purposes of a railroad map. It has, therefore, taken steps toward determining the cost of publishing a new and more comprehensive map, and has gathered part of the requisite data, leaving the publication of the map, however, to the next Commission, inasmuch as it could not be accomplished within the present administration.

The Railroad Commissions of the various states, some years ago, organized what is known as the National Association of Railway Commissioners, which includes in its membership the Interstate Commerce Commission and every State Railroad Commission. Immediately upon its organization the State Railroad Commission of Colorado accepted an invitation to become a member of this association. Its object is to promote discussion of every feature of passenger and freight transportation, with a particular view to adopting the most effective and uniform regulations in the various states.

The Commission has established in its office in the State Capitol a carefully selected library, comprising the railroad laws of all the states in which Railroad Commissions exist, printed reports of decisions rendered in the courts relating to the proceedings of Railroad Commissions in the various states, and the reports of the Interstate Commerce Commission. Much correspondence has been had, and is on file, with the Interstate Commerce Commission and with the Commissions of the various states, in reference to questions which have arisen in the work of the Commission in this State. The practice and rules of the Interstate Commerce Commission have been adopted and followed so far as practicable.

A financial statement, showing the disbursements made by the Commission to December 1, 1908, is appended hereto.

The Commission believes the Colorado law is designed to preserve the rights of the railroads and the public. It has endeavored to perform its duties with this in view and to found the work of the Commission upon the lines laid down by the decisions of the Supreme Court of the United States as follows:

"It must be remembered that railroads are the private property of their owners; that while for the public character of the work for which they are engaged the public has the power to prescribe rules for securing faithful and efficient service and equality between shippers and communities, yet in no proper sense is the public a general manager."

"It is no proper business of a railway company, as a common carrier, to foster particular enterprises or to build up new industries, but deriving its franchises from the Legislature, and depending upon the will of the people for its very existence, it is bound to deal fairly with the public, to extend them reasonable facilities for the transportation of their persons and property, and to put all its patrons upon an absolute equality."

RECOMMENDATIONS AS TO CHANGES IN THE LAW.

The Commission desires to make the following recommendations with reference to changes in the law entitled "An Act to regulate Common Carriers in this State:"

1. That all questions as to the constitutionality of the law be removed, through its re-enactment by the Legislature, with the omission of the exceptions expressed in Section 1 of the present act relating to roads of less than twenty miles in length. The Commission is advised by able counsel that a mere amendment would not cure this feature of the present act, which has been made the subject of attack by the railroads.

2. That the salary of the Chairman of the Commission be fixed at \$5,000.00 a year, and he be required to devote all his time to the work of the Commission; that the Commission be permitted to choose a Secretary from its own members, or otherwise; to select such other employes as it may deem necessary, and to fix their salaries, payable out of its appropriation.

3. That the Commission be given power and direction to hear any and all complaints against railroads made by shippers of this State, and to transmit all interstate matters to the Interstate Commerce Commission, and to assist in every way possible in the adjustment of such matters before that Commission. In this manner, the Commission can keep in touch with all railroad questions originating in this State, be fully advised as to its

proper jurisdiction, and work in harmony with the Interstate Commerce Commission.

4. That Section 15 of the act be changed to follow more closely the provisions of Section 15 of the Interstate Commerce Commission law, in reference to the power of the Commission in dealing with and fixing rates against which complaints have been lodged and hearings had.

5. That an anti-pass provision, similar to that embodied in the Interstate Commerce Commission laws, be added to the "Act to regulate Common Carriers in this State." The Commission is convinced that the very general issuance of passes, practiced by the railroads in this State, imposes an unnecessary and improper burden upon the railroads, and creates, in effect, a form of discrimination which should not exist. It further promotes a form of political patronage, with which both the railroads and the public might profitably and wisely dispense.

CIRCULAR I.

AN ACT

To Regulate Common Carriers in This State, to Create a State Railroad Commission, to Prescribe and Define Its Duties, to Fix the Salaries of the Commissioners and of the Employees of the Commission, to Prevent the Imposition of Unreasonable Rates and Charges, to Prevent Unjust Discriminations, to Insure an Adequate Railway Service, to Prevent the Giving or Receiving of Rebates, to Prescribe the Mode of Procedure and the Rules of Evidence in Relation Thereto, to Prescribe Penalties for Violations of This Act, to Exercise a General Supervision Over the Conduct and Operations of Common Carriers, and to Repeal All Acts or parts of acts inconsistent herewith.

Be it Enacted by the General Assembly of the State of Colorado:

Section 1. That the provisions of this act shall apply to common carriers and to any corporation or any person or persons engaged in the transportation of passengers or property, or the receiving, delivering, storing or handling of property shipped or carried from one point or place within this State to any other point or place within the State; Provided, however, that this act shall not apply to mountain railroads operating less than twenty miles of road, the principal traffic of which is the hauling of mineral from and the supplies to mines. This act shall not apply to the ownership, or operation, of street railways conducted solely as common carriers in the transportation of passengers within the limits of cities and towns, nor to the ownership or operation of private railways not used in the business of any common carriers.

Sec. 2. The term "common carriers" as used in this act shall also include express companies, private freight car lines and pipe lines.

The term "railroad" as used in this act shall include all bridges used or operated in connection with any railroad, and also all the roads in use by any corporation operating a railroad, whether owned or operated under a contract, agreement

or lease; and shall also include all switches, spurs, tracks and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards and grounds used or necessary in the transportation of the person or property designated herein, and also all freight depots, yards and grounds, used or necessary in the transportation or delivery of any of said property; and the term "transportation" shall include all cars, and all other vehicles and all instrumentalities and facilities of a shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all service in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration or icing, storing or handling of property transported; and it shall be the duty of every common carrier, subject to the provisions of this act, to provide and furnish such transportation upon reasonable request therefor, and to establish through routes, and just and reasonable rates applicable thereto.

Sec. 3. All charges made for any service rendered or to be rendered in the transportation of property, as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service, or any part thereof, is prohibited and declared to be unlawful.

Sec. 4. That if any common carrier, subject to the provisions of this act, shall directly or indirectly by any special rate, rebate, drawback, or any device, charge, demand, collect or receive, from any person or persons, a greater or less compensation for any service rendered or to be rendered in the transportation of property, subject to the provisions of this act, than it charges, demands, collects or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic, under similar circumstances and conditions, such common carrier shall be deemed guilty of an unjust discrimination, which is hereby prohibited and declared to be unlawful.

Sec. 5. That it shall be unlawful for any common carrier subject to the provisions of this act, to make or give any undue or unreasonable preference or advantage to any particular person, company, firm or corporation, or concerning any particular description of freight traffic in any respect whatsoever, or to subject any particular person, company, firm or corporation or any particular freight traffic, to any undue or unreasonable prejudice or disadvantage in any such respect whatsoever.

Sec. 6. That every common carrier, subject to the provisions of this act shall file with the commission created by this act, print and keep open to public inspection, schedules showing all the rates, fares and charges for transportation between points on its own route in this State, and between points on its own route and points on the route of any other common carrier by

railroad, pipe line, or other vehicle in this State when a through route and joint rate have been established. If no joint rate over the through route has been established the several common carriers in such through route shall file, print and keep open to public inspection, as aforesaid, the separately established rates and charges applied to the through transportation. The schedules printed, as aforesaid, by any such common carrier shall plainly state the places between which property will be carried and shall contain the classification of freight in force and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require, all privileges or facilities granted or allowed and any rules or regulations which in anywise change, affect or determine part or the aggregate of any such aforesaid rates and charges, or the value of the services rendered to the shipper or consignee. Such schedules shall be plainly printed in large type and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station or office of such carrier where freight is received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

Sec. 7. No change shall be made in the rates and charges, or joint rates and charges, which have been filed and published by any common carrier in compliance with the requirements of this act except after thirty days' notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates or charges will go into effect; Provided, that the Commission may in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this act in respect to publishing, posting and filing of tariffs either in particular instances or by a general order applicable to special or peculiar circumstances or conditions. The Commission may determine and prescribe the form in which the schedule, required by this act to be kept open to the public inspection, shall be prepared and arranged and may arrange the form from time to time as may be deemed expedient.

Sec. 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permitted to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act. Every common carrier receiving property for transportation between points within this State shall issue a receipt, or a bill of lading, therefor, and shall be liable to the lawful holder thereof for all loss, damage, or injury to such

property caused by it or by any common carrier to which such property may be delivered, or over whose lines such property may pass.

No contract, receipt, rule or regulation shall exempt such common carrier from the liability in this section imposed.

But nothing in this section shall deprive any holder of such receipt, or bill of lading, of any remedy or right of action which he has under existing law.

The common carrier issuing such receipt, or bill of lading, shall be entitled to recover from the common carrier on whose line the loss, damage or injury shall have been sustained, the amount of such loss, damage, or injury, as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof.

Sec. 9. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such corporation, who alone or with any other corporation, company, person or party, shall willfully do or cause to be done, shall willfully suffer or permit to be done, any act, matter or thing in this act prohibited, or declared to be unlawful, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter or thing in this act required to be done, not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of this State within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed one thousand dollars for each offense.

Sec. 10. That if any person or any officer or agent of any corporation or company, shall, by payment of money or other thing of value, solicitation or otherwise, induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in its or their favor as against any other consignor or consignee, in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, in any court of this State of competent jurisdiction, be subject to a fine of not exceeding one thousand dollars; and such person, corporation or company shall also together with such common carrier, be liable jointly or severally, to consignor or consignee discriminated against, for all damages caused by or resulting therefrom.

Sec. 11. That a Commission is hereby created and established to be known as the State Railroad Commission, which shall be composed of three Commissioners, one of whom shall

be learned in the law and one of whom shall be a man of experience in railroad transportation and familiar with the method of adjusting freight and passenger rates.

The Governor shall appoint, by and with the consent of the Senate, three Commissioners to be a Commission until the second Tuesday in January, 1909. At the general election to be held in November, 1908, three Commissioners shall be elected, as are other State officers, one for two years, one for four years and one for six years, and at each general election to be held in this State thereafter, one Commissioner shall be elected, in the same manner as other State officers, to serve for six years, beginning on the second Tuesday in January following his election. The Governor shall fill vacancies on the Commission caused by the resignation or death of any commissioner appointed or elected as hereinbefore provided and any person who shall be so appointed to fill any such vacancy shall be appointed to hold the office of Commissioner only for the period of time ending when the said original appointment or election would have ended. Immediately upon their appointment the Commission shall meet and organize by electing one of their number President and one as Secretary.

No person shall be eligible to the office of Commissioner who shall be pecuniarily interested, either directly or indirectly in any common carrier or railroad, pipe line, telegraph, telephone or express business, or in any corporation, partnership or association owning or operating any such business in this State or elsewhere; not [nor] shall he serve in any position, station or office in any political party.

Said Commissioners shall receive as compensation for their services the sum of three thousand dollars each per annum. That all common carriers shall furnish free transportation to members of the Commission and its employes while in the discharge of their duties.

Sec. 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it is created; and the Commission is hereby authorized and required to execute and enforce the provisions of this act, and upon the request of the Commission it shall be the duty of the Attorney General to institute all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and for the purpose of this act the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agree-

ments and documents relating to any matter under investigation. And any of the District Courts of this State within the jurisdiction of which such inquiry is carried on may, in case of refusal to obey the subpoena issued to any common carrier or other person subject to the provisions of this act, issue an order requiring such common carrier or other person, to appear before said Commission (and produce books and papers, if so ordered) and give evidence touching the matters in question; and any failure to obey such order of the court may be punished by such court as contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Sec. 13. That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act, or in contravention of any of the provisions thereof, may apply to said Commission by petition which shall briefly state the facts, whereupon a statement of the charges thus made shall be immediately forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time to be specified by the Commission. If such common carrier within the time specified, shall make reparation for the injury alleged to be done, such common carrier shall be relieved of liability to the complainant, only for the particular violation of law complained of. If such common carrier shall not satisfy the complainant within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Sec. 14. That whenever investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the commission, together with its decision, order or requirement in the premises, and, in case damages are awarded, said report shall include the findings of facts on which the award is made.

All reports of investigations made by the Commission shall be entered of record and a copy thereof shall be furnished to the party who may have complained and to any common carrier that may be complained against.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and de-

cisions of the Commission therein contained in all the courts of this State, without any further proof or authentication thereof.

The Commission may also cause to be printed for distribution its annual reports.

Sec. 15. That the Commission is authorized and empowered and it shall be its duty whenever after full hearing upon a complaint made as provided herein, or upon complaint of any common carrier, it shall be of opinion that any of the rates, or charges complained of and demanded, charged or collected, by any common carrier or common carriers, subject to the provisions of this act, for the transportation of property as defined by this act, or that any regulation or practice whatsoever of such common carrier or common carriers affecting such rates or charges, are unjustly discriminatory or unduly preferential, in violation of any of the provisions of this act, to determine and prescribe in what respect and to what extent such rates or charges are so discriminatory or preferential, and what regulation or practice in respect to such transportation is just, fair and reasonable to be thereafter followed, and to make an order that the common carrier shall cease and desist from such violation to the extent to which the Commission finds the same to exist, and such common carrier or common carrier [carriers] shall thereafter conform to the regulation or practice so prescribed.

All orders of the Commission shall take effect within such reasonable time not less than thirty days, and shall continue in force for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless the same shall be suspended, modified or set aside by the Commission, or be suspended, modified or set aside by a court of competent jurisdiction.

Sec. 16. That if, after hearing on an original complaint, as provided by this act, the Commission shall determine that any party complainant petitioning therefor is entitled to an award of damages under the provisions of this act for violation thereof the Commission shall make an order directing the common carrier to pay to the complainant the sum to which he is entitled, on or before a day named.

The Commission shall be authorized to suspend or modify its order upon such notice and in such manner as it shall deem proper.

It shall be the duty of every common carrier, its agents and employes, to observe and comply with such orders as long as the same shall remain in effect.

Any common carrier, officer, representative or agent of a carrier, or any receiver, trustee, lessee or agent, or either of them, who knowingly neglects or fails to obey any order made under the provisions of this act, shall forfeit to the State the

sum of one thousand dollars for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation, each day shall be deemed a separate offense.

The forfeiture provided for in this act shall be payable into the treasury of the State and shall be recoverable in a civil suit in the name of the State, in the District Court where the common carrier has its principal operating office, or in any district through which the road of the common carrier runs.

It shall be the duty of the various district attorneys under the direction of the Attorney General of the State, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of said Commission. The Commission may employ special counsel in any proceeding under this act, paying the expenses of such employment out of its own appropriation.

Sec. 17. If any common carrier fails or neglects to obey any order of the commission while the same is in effect, any party injured by such failure or neglect, or the commission in its own name, may apply to any District Court in the State for the enforcement of such order. Such application shall be by petition, which shall state the substance of the order and the respect in which the common carrier has failed of obedience, and shall be served upon the common carrier in such manner as the court may direct; and the court shall prosecute such inquiries and make such investigations through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served, and that the common carrier is in disobedience of the same, the court shall enforce obedience to such order by writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier, its officers, agents or representatives, from further disobedience of such order, or to enjoin upon it or them obedience to the same; and in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus. From any action upon such petition an appeal shall lie by either party to the Supreme Court of this State.

Sec. 18. If, after a decision, order or requirement has been made by the Commission in any proceeding, any party thereto shall at any time make application for a rehearing of the same or any matter determined therein, then it shall be lawful for the Commission, in its discretion, to grant such hearing, if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such general rules as the commission may establish.

No order entered by the Commission shall go into effect until the expiration of five days after the entry thereof, and not

then if either party shall have filed an appeal to the District Court. Either party interested may have ten days within which to appeal to the Supreme Court from the judgment, order or decree of the District Court, and in case an appeal is duly perfected within said ten days, the order of said commission or judgment of the District Court shall not go into effect until a final decision in the matter is rendered by the Supreme Court of the State; Provided, that unless an adverse decision is rendered by said Supreme Court within ninety days from the date of the entry of the order by the Commission, then the order made by the commission shall take effect and be in force until set aside by the Supreme Court.

Sec. 19. The Commission may appoint a clerk who shall be a stenographer, at an annual salary of fifteen hundred dollars.

The Commission shall be provided with suitable offices for its use in the State Capitol, and shall have authority to procure all necessary office supplies.

Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the District Courts of this State. The Commission shall hold sessions whenever the convenience of the public or of the parties may be promoted, and may hold special sessions in any part of the State. It may, by any one or more of the Commissioners, prosecute any inquiry necessary to its duties in any part of the State and in any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

The Commission shall at all times have access to all accounts, records and memoranda kept by common carriers subject to the provisions of this act, and it may employ special agents or examiners who shall have authority, under order of the Commission, to inspect and examine any and all accounts, records and memoranda kept by such common carriers. This provision shall apply to receivers of common carriers and operating trustees.

In case of failure or refusal on the part of any common carrier, receiver or trustee to submit such accounts, records or memoranda as are kept to the inspection of the Commission, or any of its authorized agents or examiners, such common carriers, receivers or trustees shall forfeit to the State the sum of five hundred dollars for each such offense, and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

Sec. 20. That the District Courts of this State shall have jurisdiction, upon the application of the Attorney General, who shall act upon the request of the Commission, alleging the failure to comply with or the violation of any of the provisions of

this act, to issue a writ or writs of mandamus, commanding such common carriers to comply with the provisions of this act, or any of them.

Sec. 21. An appeal shall lie from any order of the Commission to the District Court and the trial thereon shall be de novo and all appeals from the said Commission to the District Court and from the District Court to the Supreme Court of the State shall take precedence over all other litigation then pending in either of said courts, except criminal cases, and that said courts shall, upon motion of the Attorney General advance such hearings on the trial calendar of said courts for as early a hearing as possible.

Sec. 22. Every common carrier operating any railroad shall, upon reasonable notice, supply suitable cars to any and all persons who may apply therefor for the transportation of any and all kinds of freight, with all reasonable dispatch; and shall likewise transport without unreasonable delay or discrimination the passengers and freight offered by any connecting common carrier, and also the empty and loaded cars furnished by any connecting common carrier to be delivered at any station on its own line, to be loaded or unloaded or reloaded and returned upon the railroad so connecting; and for compensation for so handling such freight and empty and loaded cars it shall not demand or receive any greater sum than is accepted by it from any other common carrier operating another railroad, for similar services.

If any common carrier shall fail, refuse or neglect to perform the duty prescribed in this section, it shall, for every such violation, failure, neglect or refusal be liable to the party damaged thereby in such sum as damages as may be recovered in any court of competent jurisdiction.

In case there shall be an insufficiency of cars at any time to meet all requirements, the available cars shall be distributed among the several applicants therefor in proportion to their respective immediate requirements, without discrimination among shippers or competitive or non competitive places, except that preference shall be given to shipments of live stock and perishable property.

The Commission shall have power to enforce reasonable regulations in supplying cars to shippers and for switching the same and for the loading and unloading and reloading thereof and for the weighing of cars and freight offered for shipment by any common carrier.

Sec. 23. After delivery of the car or cars to the applicant by the common carrier, forty-eight hours shall be allowed to the applicant to load said cars, computing from seven a. m. the day following the delivery of the cars, and upon failure so to do the common carrier shall be entitled to collect from said applicant the sum of one dollar per day for each car not returned

loaded to the carrier within the time thus allowed, and if the applicant shall not use the cars applied for the common carrier shall be entitled to collect the sum of one dollar per day or fraction of a day, and a reasonable switching charge for each car so delivered and not used.

Sec. 24. A consignee or other interested party shall be allowed forty-eight hours of free time to unload cars, taking each track delivery computed from seven o'clock a. m. of the day following the day notice of arrival of the cars and of the placing at an accessible point for unloading is given to the consignee or other interested party, and thereafter the common carrier may collect a charge of one dollar per day or fraction of a day during which cars are not unloaded or returned to the common carrier. In the event that cars are bunched and delivery to the consignee or party whose interest may appear in numbers beyond his reasonable ability to unload within the free time herein allowed, he shall be granted by the carrier such additional time as may be necessary to unload cars in the order of their shipment.

Sec. 25. It shall be the duty of every common carrier doing business in this State to furnish suitable cars to any and all persons, firms or corporations who apply therefor, for the transportation of property with all reasonable dispatch. Upon application made by any owner or shipper of property to be transported to any agent or other person in charge of transportation of any such common carrier, at any point that cars are desired upon which to ship such property, stating the number of cars desired, and place at which they are desired, and the time at which they are desired, the kind of property to be shipped or transported, it shall be the duty of such carrier to supply the number of cars desired, suitable for the purpose required within a reasonable time thereafter, not to exceed three days. If any carrier shall fail or neglect to furnish cars when thus applied for, within the time herein prescribed, such carrier shall forfeit to the party or parties applying for them the sum of one dollar per day or fraction of a day for each car failed to be furnished within the time herein required, and all actual damages that such applicant may sustain, and the same may be sued for and recovered in any court of competent jurisdiction.

Sec. 26. It shall be the duty of every common carrier to transport any and all shipments between points in this State with the utmost diligence.

For failure of any common carrier to receive and transport such shipments with the utmost diligence, such common carrier issuing the receipt or bill of lading therefor shall pay to the owner, consignee or other interested party whose interests may appear, such actual damages as the owner, consignee or other interested party may sustain, and the same may be sued for

and be recovered in any court of competent jurisdiction in the district in which the plaintiff resides.

Sec. 27. Every common carrier shall, whenever an accident attended by loss of human life shall occur within this State on its line of road or on its ground or in its yards, give immediate notice thereof to the Commission.

In the event of any such accident, the Commission, if it shall deem the public interests to require it, shall cause a suitable investigation to be made forthwith, and shall give reasonable notice thereof to the persons and common carriers primarily interested.

The expenses of such investigation shall be certified by a majority of the Commission and shall be audited and paid by the State in the same manner as other expenses are audited and paid.

The Commission shall be empowered to make and enforce such rules as, in their judgment, will tend to prevent accidents in the operation of the railroads of this State.

Sec. 28. If, in the judgment of the Commission, after a careful personal examination and investigation and after a hearing before the Commission, or the opportunity for such a hearing, the Commission shall find that repairs, improvements or increased facilities, in respect to road bed, trackage, rolling stock, stations and depots, yards, terminal facilities, switches, signals, or any other element of the service of any common carrier, shall be necessary and within the reasonable power of any common carrier to make, or adopt, for the promotion of the security of persons as to life and limb, or for the convenience and accommodation of the public in the shipping and handling of property, the Commission shall make such reasonable order requiring any common carrier to do any such thing deemed by the Commission to be proper in respect to such matters, within a reasonable time to be fixed by the Commission, as to them shall seem so necessary and so within such reasonable power of such common carrier; and the orders of the Commission in such respect shall be enforced by the proper writs and orders of courts of competent jurisdiction, the common carrier having the same right to an appeal upon such orders, and under the same conditions, as is prescribed in this act respecting appeals from orders of the Commission.

Sec. 29. In order to carry out the provisions of this act, there is hereby appropriated out of any money in the State Treasury not otherwise appropriated, for the incidental expenses and other necessary expenditures for said Commission, for the period from the first day of April, 1907, to the first day of April, 1909, the sum of six thousand dollars; and the Auditor of State is hereby authorized to draw a warrant or warrants for the same from time to time upon the request of said Commission.

Approved March 22nd, 1907."

CIRCULAR NO. 2.

June 15, 1908.

To the Public:

Dear Sir—The State Railroad Commission is desirous of information concerning the relations between the railroads and express companies of Colorado and those depending upon them. It wants to advance the interests of each in the light of fairness to both and with due regard to the public service.

The Commission must rely upon the business interests of the State to assist in the work which the law imposes upon it and to fully advise it of existing conditions.

The Commission is established as the medium through which the differences between the railroads and express companies and the shippers may be equitably adjusted in as short time as possible and with small expense.

Enclosed find some questions which are being submitted to many others, in the hope that from the answers the greatest need of the people may be learned and the direction of the immediate work of the Commission ascertained. We beg you to return your answers at your earliest convenience and if you mark the same "confidential" they will be so treated. The Commission, however, will not consider that you are lodging any complaints under the law *against the railroads* by your answer, but will use them *only* for the purposes aforesaid. If you have any complaint to file against any transportation company it must be done under our rules.

Respectfully,

THE STATE RAILROAD COMMISSION.

F. J. CHAMBERLIN, President.

CIRCULAR NO. 3.

June 19th, 1908.

To All Transportation Lines in Colorado:

This Commission desires to secure a correct list of all officers of your company to whom circulars and communications should be properly addressed on the various matters under its jurisdiction. Will you kindly fill out and return the enclosed blank to this office at the earliest possible moment? If any additional departments are included in your management which should be named in this list, please add to blank. If you have any leased lines which have officers in certain departments to whom circulars and communications, affecting their departments, should be sent, please make up an additional list in the same form as attached blanks and send here also. When changes of officers are made from time to time, send notice here promptly.

Yours truly,

BULKELEY WELLS,
Secretary.

CIRCULAR NO. 4.

CAR SUPPLY.

September 3, 1908.

To All Transportation Lines in Colorado:

Section 22 of the Act creating the State Railroad Commission of Colorado reads, in part, as follows:

“Every common carrier operating any railroad shall, upon reasonable notice, supply suitable cars to any and all persons who may apply therefor for the transportation of any and all kinds of freight, with all reasonable dispatch * * *.”

The Commission is in receipt of numerous communications and complaints relative to delays occasioned shippers in the past, through failure on the part of the railroads of this State to furnish cars promptly for the transportation of fruits, potatoes, grain and live stock. Shippers evidently anticipate similar delays in securing cars for the movement of shipments shortly to be made. The Commission, therefore, thinks it proper to urge upon the railroads the advisability of providing for this traffic, so far as possible in advance, that such causes for complaint on the part of the shippers may be avoided. The Commission recognizes that the railroads, in all probability, have these matters under consideration at this time of the year, but urges that special attention to the handling of such shipments be given, and suggests that reports from agents at points making such shipments, giving the probable volume of produce and live stock to be transported, will go far towards relieving the difficulties heretofore experienced.

BY ORDER OF THE COMMISSION,

BULKELEY WELLS,
Secretary.

CIRCULAR NO. 5.

October 15, 1908.

In the Matter of Modification of the Provisions of Section Six of the Act With Regard to Posting Tariffs at Stations.

Under the authority conferred upon the Commission by section 7 of the act, to modify its requirements as to publishing, posting and filing of tariffs, the Commission issues the following order, in connection with which it must be understood that each carrier has the option of availing itself of this modification of the requirements of section 6 of the act or of complying literally with the terms of the act. If such modification is accepted by a carrier it must be understood that misuse of the privileges therein extended or frequent misquotation of rates on the part of its agents will result in cancellation of the privileges as to that carrier. It should also be understood that in so modifying the requirements of the act the Commission expects a continuation by carriers of the practice of furnishing tariffs to a reasonable extent to frequent shippers thereunder.

Every carrier subject to the provisions of the act to regulate commerce shall place in the hands and custody of its agent or other representative at every station, warehouse or office at which passengers or freight are received for transportation, and at which a station agent or a freight agent or a ticket agent is employed, all of the rate and fare schedules which contain rates and fares applying from that station or terminal, or other charges applicable at that station, including the schedules issued by that carrier or by its authorized agent and those in which it has concurred. Such agent or representative shall also be provided with all changes in, cancellations of, additions to, and reissues of such publications in ample time to thus give to the public, in every case, the required notice.

Such agent or representative shall be provided with facilities for keeping such file of schedules in ready-reference order, and be required to keep said files in complete and readily accessible form. He shall also be instructed and required to give any information contained, in such schedules, to lend assistance to seekers for information therefrom, and to accord inquirers

opportunity to examine any of said schedules, without requiring or requesting the inquirer to assign any reason for such desire, and with all the promptness possible and consistent with proper performance of the other duties devolving upon him. He shall also furnish upon request therefor quotation in writing of rates via such carrier's line not contained in the tariffs on file at that station. Carrier may arrange for such agent to refer such requests to a proper officer of the company, but the quotation must be furnished within a reasonable time and without unnecessary delay.

Each of such carriers shall also provide and each of such agents or representatives shall also keep on file copies of the current issues of the indices of the tariffs of that carrier.

Each of such carriers shall also provide, either in its indices of tariffs or in separate publication or publications, which must be kept up to date, and be filed with the Commission, an index or indices of the tariffs that are to be found in the files at each of its several stations or offices. Such index shall be kept on file and be open to inspection at each of such several stations or offices as hereinbefore provided. If such indices are prepared for a system of road or for a number of stations or offices they must be printed and may be arranged under a system of station numbers and alphabetical list of stations. If arranged for individual stations or offices they may be printed or typewritten. All such indices must be the required standard size of tariffs.

Each of such carrier shall require its traveling auditors to check up each station's or office's file of tariffs at least once in each six months, unless it employs one or more traveling tariff inspectors, who will make such inspections and checks.

Each of such carriers shall also provide and cause to be posted and kept posted in two conspicuous places in every station waiting room, warehouse or office, at which schedules are so placed, in custody of agent or other representative, notices printed in large type and reading as follows:

"The rate and fare schedules applying from or at this station and indices of this company's tariffs are on file in this office, and may be inspected by any person upon application and without the assignment of any reason for such desire.

"The agent or other employe on duty in the office will lend any assistance desired in securing information from or in interpreting such schedules."

At exclusive freight stations or warehouses and at exclusive passenger stations or offices carriers may, under this order, place and keep on file only the freight or passenger schedules, respectively, and in such cases the posted notices may be varied to read:

"The freight rate (or passenger fare) schedules applying from or at (or from) this station and index of this company's freight or (passenger) tariffs are on file in this office," etc.

Compliance with this order as to all available tariffs is required not later than December 1, 1908, and full compliance in every instance not later than *January 1, 1909*.

BY ORDER OF THE COMMISSION,

E. O. ALSTON,
Clerk.

CIRCULAR NO. 7.

December 6, 1908.

To the Traffic Manager of Transportation Lines in Colorado:

At a meeting held on the 2d inst., the Commission, at the request of the traffic manager of one of the transportation companies, took under consideration the question of the legality of the clause in the tariffs of some of the transportation lines providing for reduced rates on freight consigned to company boarding houses. The Commission voted to issue the following ruling, viz.:

“Transportation for Eating Houses Operated by or for Carriers—Carriers subject to the act may provide at points on their lines eating houses for passengers and employes of such carriers, and property for use of such eating houses may properly be regarded as necessary and intended for the use of such carriers in the conduct of their business. Such eating houses, however, must not serve the general public, or any portion thereof, with food prepared from commodities which have been carried at less than the full published rate, and no utensils, fuel, or servants at all employed in serving others than passengers and employes of the carrier as such should be carried at less than tariff rates.”

BY ORDER OF THE COMMISSION.

BULKELEY WELLS,

Secretary.

FORMAL COMPLAINTS.

CASE NO. 1.

George W. Cook vs. The Colorado Midland Railway Company.

Freight rates on manganese ore from Leadville, Colorado, to Colorado Common Points.

Filed August 9, 1907, date for answer set for September 9; postponed at request of parties interested pending decision of court in the case of the Denver & Rio Grande Railroad Company, et al. vs. The State Railroad Commission. July 10, 1908, fixed as date for hearing, which was extended to July 31, 1908, at request of parties interested; continued to October 1, 1908, at request of parties interested; continued to November 6, 1908, at the request of parties interested.

November 6, 1908 special appearance of defendant, and objections filed, overruled and hearing was begun.

Decision November 16, 1908, as follows:

"The petition filed with this Commission alleges that for several years prior to February 28, 1907, petitioner was engaged in shipping manganese ore from Leadville, Colorado, to points outside the State, and that he had a rate of \$1.40 per ton of 2240 pounds from Leadville to Denver, which he paid the Colorado Midland Railway Company; and that this had been the rate on such ore for a period of ten years, excepting one and one-half years, when the rate made by the Colorado & Southern Railway Company, for the above named haul, was \$1.00. That in May, 1906, the Colorado Midland Railway Company raised the rate 33 22/100 cents per gross ton from Leadville to Denver. That \$1.73 22/100 was prohibitive, and he had to relinquish his business, and has since been unable to secure the former rate from the said railway company. That said former rate of \$1.40 per gross ton was a reasonable rate; that the railway company is discriminating against him, in that it gives a less rate from Leadville to Colorado Common Points to the Colorado Fuel & Iron Company.

To this petition the Colorado Midland Railway Company filed certain objections, the principal one being that the matter complained of was interstate traffic, in that the rate asked for was only a part of a through rate which the petitioner was seeking, and that hence the matter was beyond the jurisdiction of this Commission.

Mr. Henry T. Rogers appeared for the Colorado Midland Railway Company, and General George W. Cook acted for himself at the hearings held November 6, and November 9, 1908.

The Commission decided that the objections filed by the Colorado Midland Railway Company should be overruled, except that the Commission could not consider the shipments, of which petitioner complained, which were made prior to the act creating this Commission, for the reason that they were interstate shipments and consequently outside the jurisdiction of this Commission, and that it could not consider reparation for the overcharge for the same. It decided, however, that it would consider the following questions:

1. 'Is there now existing any discrimination on the part of the Colorado Midland Railway Company whereby the petitioner in this case is discriminated against in the shipment of manganese ore from Leadville, Colorado, to Colorado Common Points?'

2. 'What is a reasonable rate on manganese ore originating at Leadville, Colorado, and destined to Colorado Common manganese ores under the rate fixed?'

The Commission asked that evidence be introduced upon these questions.

The petitioner did not produce any evidence to support affirmatively the first question, while the Railway Company did, by the testimony of its traffic manager, deny that any discrimination existed, and stated that the rate fixed of 7½ cents per 100 pounds applied to all shipments of this ore from Leadville to Colorado Common Points, and was paid by the Colorado Fuel & Iron Company.

Upon the second question the petitioner failed to produce any evidence, which the Commission could weigh, that the rate of 7½ cents per 100 pounds, as fixed, was unreasonable. He claimed it was prohibitive, as he could not meet competition of ores shipped as ballast in steamships from foreign ports to the Illinois Steel Company, via Baltimore. He stated that the rate from Baltimore to Chicago was \$1.50 per gross ton, but failed to produce any testimony to show that this could be fairly compared with the Colorado rate, considering the totally different conditions of railroading. The Railway Company stated that the rate was not unreasonable, and that \$1.40 per ton was under the actual cost of handling the traffic, and nothing to the contrary was presented to the Commission.

In the matter of the determination of what shall be considered to constitute a ton of manganese ores, the Railway Company answered that its rates are fixed and quoted solely upon the basis of so much per 100 pounds.

The evidence disclosed the fact that the Colorado Midland Railway Company received as its share of this \$1.50 rate, \$1.10

for the haul over its road from Leadville to Colorado Springs, the remaining 40 cents going to the road hauling the ore from that point to Denver or Pueblo. The Commission deems it unnecessary, under the circumstances of this case as hereinafter stated, to go into this feature of the rate.

Petitioner asked that \$1.10 be declared the reasonable rate on manganese ores from Leadville to Colorado Springs, and that he be given the right of routing his shipments from Colorado Springs to points outside the State.

No movement of shipments to Colorado Springs, as final destination, is alleged by the petitioner or shown by the evidence introduced in this case, and, therefore, any ruling the Commission might make would be a direct assumption of authority over a movement of interstate traffic, over which this Commission has no control. Section 1 of the Act creating this Commission reads as follows:

"That the provisions of this Act shall apply to common carriers and to any corporation or any person or persons engaged in the transportation of passengers or property, or the receiving, delivery, storing or handling of property shipped or carried from one point or place within this State to any other point or place within this State."

The Commission can, therefore, give petitioner no relief in this case, and must refer him to the Interstate Commerce Commission.

For the reasons stated the petition is dismissed."

CASE NO. 2.

E. G. Elliott vs. The Pacific Express Company.

Refusal of Express Company to receive shipments at Sorrento, Colorado.

Filed June 10th, 1908.

The petition and notice served on the Express Company, and the complaint was satisfied by the defendant's receiving shipments, as desired.

CASE NO. 3.

John J. Serry vs. The Denver & Rio Grande Railroad Company.

Rate on lumber from Cotopaxi, Colorado, to Cripple Creek, Colorado.

Filed July 1, 1908.

The petition and notice served on Railroad Company, and the rate petitioned for was given without formal hearing.

CASE NO. 4.

Colorado Consolidated Lumber Company vs. The Denver and Rio Grande Railroad Company; also same vs. The Union Pacific Railroad Company.

Rate on box shooks from Denver to Louviers, Colorado, and from Denver to Ft. Lupton, Colorado.

Filed July 10, 1908.

The petition and notice served on the defendant railroad companies who answered the complaint. Answer was referred to complainant, with instructions that if he desired to pursue the matter, a date would be set for formal hearing. The Commission heard nothing further from the complainant, and case was dismissed August 22, 1908.

CASE NO. 5.

Citizens of Galatea, Colorado, vs. The Missouri Pacific Railway Company. A petition for increased facilities.

Submitted September 10, 1908.

Decided September 21, 1908.

Certain citizens of Galatea, Colorado, filed on August 8, 1908, with this Commission, a petition, wherein they stated:

“First—There is no agent of the Missouri Pacific Railway Company at Galatea, Colorado.

Second—The patrons of the said company residing in said town and vicinity are greatly inconvenienced by reason of being unable to send or receive telegrams or express without making a trip of nine or more miles to one of the adjoining towns.

Third—Freight billed to the said town of Galatea, even when charges are prepaid, is often carried through to the adjoining town, and perishable goods spoil before they are received.”

After duly notifying the Missouri Pacific Railway Company of this petition, the Commission fixed September 10, 1908, as the date, and 3:30 p. m. as the time, for a hearing at Galatea on this matter. Although duly notified of this hearing, the Missouri Pacific Railway Company had no representative present. Witnesses were examined by Mr. Chamberlin, and the testimony duly transcribed.

After careful investigation the Commission finds:

Galatea is located in Kiowa County, on the Missouri Pacific Railway, ninety-nine miles east of Pueblo, in a dry farming section.

Haswell, seven miles west, and Eads, thirteen miles east, are the nearest agencies.

There is at Galatea a population of 250 people, practically all having moved in during the last two years; one general merchandise store, one hotel, one schoolhouse and church, one small lumber yard.

A station house, in apparent good condition, but not accessible to the public as either a freight warehouse or a waiting room, and adequate stock pens.

A private telephone line to Haswell, poorly constructed, and most of the time not available.

One passenger train in each direction stops on flag, and, in emergency, permission may be had to flag the other passenger trains. Formerly several trainloads of cattle were shipped out. In the fall of 1907 about three hundred head of cattle offered for shipment, but, owing to inability to secure cars, some were driven to Eads and the remainder were turned loose. Probably three or four trainloads would move from Galatea this fall if adequate facilities were afforded.

Other than cattle, practically no outbound shipments are in sight. The State Agricultural Department is encouraging the people to devote themselves to dairy and poultry business, which they will do if properly encouraged by the railway and express companies.

The in-bound business is small, consisting of supplies for the settlers and feed for the stock. The freight on this amounts to \$150.00 to \$200.00 per month. Part of this freight is paid at Eads or Haswell, and appears to the credit of those points.

Freight for Galatia citizens is either billed prepaid to Galatea or to stations on either side. That billed to Galatea is frequently delivered at Eads or Haswell, sometimes necessitating several trips to those points.

There is no system of advising consignees of arrival of shipments at Eads or Haswell, causing a delay of sometimes weeks and months to consignee.

Infrequent and irregular freight train service; some weeks only one local freight train.

Little or no redress for damage or shortage to shipments received, and live stock killed; claims are frequently not acknowledged.

Requisitions for cars for loading live stock are frequently filled without notice to shipper, and sometimes are never heard from. Delays frequently occur in moving cars loaded with live stock. The same confusion in handling package freight attends the handling of baggage and express.

Apparently there exists some arrangement between the Railway Company and Mr. Gillespie, whereby Mr. Gillespie is to give transportation matters some attention, but whatever that arrangement is, if there is any, it is inadequate and unsatisfactory.

The general attitude of the Railway Company is apparently one of indifference, and tends to discourage rather than to encourage the settlers. The Railway Company has encouraged these settlers to occupy lands on its line and to till the same under improved methods of soil culture. Large numbers have responded, but the Railway Company furnishes no greater accommodations than before. The United States government, by experimentation, and the State of Colorado, through its Agricultural College, are aiding these settlers in establishing themselves permanently, yet this common carrier withholds the support it might give. It would seem that the Railway Company should make an earnest effort to establish these settlers as a permanent source of revenue, instead of being indifferent to their welfare.

ORDER.

Upon these facts it is hereby ordered that the defendant railway company use the depot now located at Galatea for the public freight and passenger service at that point, and provide some competent person to receive freight and issue bills of lading for the same, and perform such service in the care and protection of the freight and baggage as the same may demand. It is further ordered that the said defendant Railway Company shall accept prepaid shipments for Galetea, and shall so bill and deliver same, and promptly notify consignees of arrival of shipments, and that this order be complied with by November 1, 1908.

The petition for a regular operator and agent is denied, as the amount of business at Galatea is not sufficient to warrant the same.

No order is entered against the Express Company, awaiting the compliance on the part of the defendant railway with the above order."

CASE NO. 6.

Town of Vona, Colorado, vs. The Chicago, Rock Island & Pacific Railway Company. A petition for increased facilities submitted October 17, 1908. Decided November 9, 1908.

A petition was filed with this commission, signed by a large number of citizens of Vona, Colorado, asking for better passenger and freight service, and for a station agent. It was stated in the petition that this town had grown very rapidly during the past year, on account of the large number of settlers who had taken up land in this vicinity, and that that there was a large amount of business being transacted at the town, and that the town was discriminated against in that it had practically no passenger service, and that it would do sufficient busi-

ness if it had a station to pay for said agent and warrant the railroad in maintaining one there.

The Railway Company was duly notified of this petition, and filed its answer, in which it denied the power of the Commission to act in the matter, on account of the alleged unconstitutionality of the law and other matters, and in answering the facts stated in the petition, stated that it was unable, on account of the physical conditions existing at Vona, to give it better passenger service, and that there was not sufficient business there to warrant the keeping of a station agent.

The hearing on the petition was held at Vona on the 17th day of October, 1908. There were present at said hearing Mr. Caldwell Martin, as attorney for the railway company, and Mr. Abbott, its Division Superintendent. Mr. Ritter took the testimony on behalf of the Commission.

On the 28th day of October, 1908, Caldwell Martin appeared specially before the Commission on behalf of the Chicago, Rock Island & Pacific Railway Company, and objected to the taking of any action whatsoever by the Commission against the said Railway Company in relation to the matter of the aforesaid petition of the citizens of Vona, and stated that the said Railway Company waived none of the matters as contained in its answer to the said petition, but that said Railway Company, of its own motion, offered to make passenger train No. 40, eastbound stop on flag at Vona for local service, and passenger train No. 27, westbound, stop on flag at Vona for local service; train No. 40, arriving at Vona at 6 p. m., and train No. 27, arriving at Vona at 5 a. m. He also stated that the Railway Company would maintain a waiting room at Vona for passengers, and would heat the same in winter, and furnish flags and lanterns necessary for flagging trains, and take all necessary action in order to enforce the orders to stop the aforesaid passenger trains at Vona on flag.

FINDINGS.

The Commission is of the opinion that this offers to Vona the best passenger service it can reasonably expect at this time, and places Vona on an equality with other towns of similar size on that division of the road between Limon Junction, Colorado, and Goodland, Kansas, and the offer of the Railway Company is accepted by the Commission in lieu of any finding and order in the premises, and in consideration of the company putting the same into effect immediately.

In the matter of the Railway Agent and increased freight facilities, the Commission deems that a further showing should be made by petitioners as a basis for further investigation by

the Commission, as it is not yet satisfied that it is warranted in ordering the Railway Company to place a station agent at Vona, and therefore no order is made at this time, and the matter will be held in abeyance for further investigation.

No order is entered against the Express Company at this time.

CASE NO. 7.

GERBER, ET AL.,

vs.

UNION PACIFIC RAILROAD COMPANY.

In the Matter of Switching Cars from Connecting Lines.

In this case petitioners complain that, under a notification effective April 1, 1908, the Union Pacific Railroad Company withdrew from them the use of a siding, known as Ryan's Spur, in its Denver yards; that, in so doing, the Railroad Company is discriminating against them, and is seriously injuring their business interests; and that the action taken is contrary to the provisions of Section 22 of the "Act to Regulate Common Carriers in this State."

At the hearing held in this case Mr. G. Gerber appeared for the petitioners and Mr. C. C. Dorsey for the Union Pacific Railroad Company.

Findings and order Dec. 15, 1908. On Dec. 23, the Union Pacific Railroad filed a petition for rehearing, which was granted. Rehearing was had Dec. 29th. The decision of the Commission had not been reached when this report went to the printer.

CASE NO. 8.

Citizens of Chivington, Colorado, vs. The Missouri Pacific Railway Company. This is a petition for increased freight and passenger facilities, and January 6, 1909, has been fixed as the date for hearing.

CASE NO. 9.

The Citizens of Severance, Colorado, vs. The Great Western Railway Company. This is a petition for agent and increased

facilities. The matter has been taken up with the defendant Railway Company, who asks for an extension of time to answer, to January 25th, 1909.

CASE NO. 10.

The Crystal River Marble Company vs. The Crystal River & San Juan Railway Company. Discrimination in service. January 20th, 1909, has been set as date for hearing.

CASE NO. 11.

The Citizens of Atwood, Colorado, vs. The Union Pacific Railroad Company. This is a petition for increased facilities, but the information furnished in the petition is not sufficient, and the Commission has advised the petitioners as to just what data is desired before proceeding.

INFORMAL COMPLAINTS.

The Fountain Trading Company vs. The Denver & Rio Grande Railroad Company. Freight service at Fountain, Colorado. Specific instances were given, the matter taken up with the Denver & Rio Grande Railroad Company, and the troubles complained of remedied.

The People vs. The Atchison, Topeka & Santa Fe Railway Company. Condition of hoisting plant at Trinidad, Colorado. The matter was taken up with the defendant, and necessary repairs to hoisting plant were promptly made.

Phillips vs. The Colorado & Southern Railway Company and the Denver & Rio Grande Railroad Company. Question of salary. Complainant was advised that this Commission has no jurisdiction over salaries.

G. R. Moore vs. The Denver, Northwestern & Pacific Railway Company. A complaint that said company failed to stop its train on flag. Investigation showed that complainant undertook to flag a passenger train at a point not designated as a flag station, and that position of complainant was not well taken.

C. P. McCary vs. The Denver & Rio Grande Railroad Company. Passenger service at Grand Junction. Complainant alleged that passenger service was poor, on account of poor equipment and crowded condition of cars. The matter was taken up with the defendant railroad, and the Commission was advised that there was no occasion for the existence of the condition complained of, and that, if it did exist, it would be corrected. Complainant was so advised and requested to notify the Commission if relief was not given. The Commission has heard nothing further in the matter.

Citizens of Kersey, Colorado, vs. The Union Pacific Railroad Company. These citizens desired to have passenger trains, passing Kersey at 6 a. m. for Denver, and arriving at Kersey at 11 p. m. from Denver, stopped, inasmuch as the service of the motor car train was deemed inadequate. The matter was taken up with the defendant railroad, but the Commission received no reply. The Commission has been advised by petitioners that the defendant company has granted the request.

D. G. Boyd vs. C., B. & Q. R. R. Complaint relating to delay in shipment of household goods from Las Animas, Colorado,

destined to Hamilton, Montana. Complainant was advised that shipment was an interstate movement, and, therefore, beyond the jurisdiction of the Commission.

J. H. Smith vs. The Denver & Rio Grande Railroad Company. Reparation live stock killed. This was one of the first claims submitted, and the Commission took the position that, under the law, it cannot concern itself with the settlement of individual claims but simply with the general policy of transportation lines in the State in treatment of claimants and the matter was taken up with the Denver & Rio Grande Railroad Company on this basis. It promptly rendered a full and complete statement of the transaction, which showed the claim had had reasonable consideration, and claimant was advised that, as the facts were laid before the Commission, it was not in position to pass definitely upon the reasonableness of settlement, but if he had any other information he desired to submit to the Commission it would be glad to give the matter further consideration. Nothing further was heard from claimant.

R. L. Blake vs. Union Pacific Railroad Company. Overcharge on shipment of sheep from Corona, New Mexico, to Omaha, Nebraska. The petitioner was advised that inasmuch as the shipment was an interstate movement, the Commission was without jurisdiction.

C. E. Rees vs. The Denver & Rio Grande Railroad Company. Live stock killed. Petitioner desired information regarding the existence of the law requiring railroads to fence right of way. Claimant was advised that the question was beyond the jurisdiction of the Commission.

Chrt Goerke vs. The Denver & Rio Grande Railroad Company. Damage to piano. Claimant was requested to furnish the Commission with all papers in the matter, but nothing further has been heard from him.

George W. Kindel vs. The Chicago, Burlington & Quincy Railroad Company. The question involved was classification of less than car load machinery crated. The shipment was investigated, and it was found it had been properly classified under Rule 14 of the Western Classification.

S. L. Shone vs. The Pacific Express Company. Express rate on meat from Sheridan Lake, Colorado, to Pueblo, Colorado. The matter was investigated, and claimant requested to furnish certain data, if it was his desire to pursue the matter to a conclusion. The Commission set a date for hearing, but heard nothing further from claimant.

The Hadley Mercantile Company vs. The Denver & Rio Grande Railroad Company. Rate on potatoes from Carbondale, Colorado, to Wiley, Colorado. The complainant stated that he had requested a rate on potatoes, in carload lots, from Carbondale, Colorado, to Wiley, Colorado, and had been quoted forty cents per 100 pounds, but when shipment reached destination

the delivering line presented a bill on the basis of forty-six cents per one hundred pounds. It was claimed by the railroad company that the rate of forty cents per one hundred pounds was the Missouri River rate, and would not apply to intermediate points. The Commission was requested to pass on the merits of the case. Upon consulting the tariff it was found that the forty-cent rate was the Missouri River rate, and the forty-six-cent rate was a combination of the Denver & Rio Grande Railroad Company's rate from Carbondale, Colorado, to Pueblo, Colorado, and the Atchison, Topeka & Santa Fe Railroad Company's rate from Pueblo, Colorado, to Wiley, Colorado. The Commission took the matter up with the initial line, and was promptly advised that the Missouri River rate of forty cents would be established as a maximum rate to intermediate points in Colorado, and the petitioner was so advised. Furthermore, the Commission advised the petitioner that the Commission would not object to the transportation lines protecting the forty-cent rate on the shipment in question, but that it could not order reparation until after formal complaint and hearing, which has not been made.

Citizens of Fort Morgan, Colorado, vs. The Chicago, Burlington & Quincy Railroad Company and the Union Pacific Railroad Company. The Commission received several informal complaints from citizens of Fort Morgan, in regard to the rate on coal from various mines, and, after some correspondence with the Fort Morgan Chamber of Commerce, Mr. Ritter, for the Commission, visited Fort Morgan and held an informal hearing. The position of the Commission, as a medium through which differences between the public and the transportation lines might be adjusted, was stated, but the complainants had no statistics to submit. They were, however, of the opinion that the rates on coal from Colorado mines, rates on grain from Nebraska points, rates on cotton piece goods from Eastern points, and rates on hay from Nebraska points were excessive. The Commission explained the method of filing complaints and the procedure required and offered to take the matter up without delay as soon as the petition was filed. The Commission was later advised by the Fort Morgan Chamber of Commerce that it would let the matter drop for the present.

J. L. Bartlett vs. The Union Pacific Railroad Company. Rate on coal to Greeley, Colorado. Complainant requested the Commission to take up, informally, the question of rates on coal into Greeley, and the matter is now the subject of correspondence.

W. R. Goodwin vs. The Chicago, Burlington & Quincy Railroad Company. Shipment of fence posts, Boulder, Colorado, to Grover, Colorado. A through rate of eighteen cents was quoted, but when shipment reached destination it was billed on a basis of twenty-seven and one-half cents per one

hundred pounds. Upon investigation it was found that, at the time shipment moved, the rate was made up on basis of five cents per one hundred pounds, Boulder to Denver, and twenty-two and one-half cents per one hundred pounds, Denver to Grover. Since that time the rate Denver to Grover has been reduced to nineteen cents per one hundred pounds, and the Chicago, Burlington & Quincy Railroad Company, when the matter was brought to its attention, was agreeable to the protection of the nineteen-cent rate on the shipment in question, making a through rate, Boulder to Grover, of twenty-four cents per one hundred pounds.

H. Henger vs. The Denver & Rio Grande Railroad Company and the Colorado Midland Railway Company. Rate on grain products from Denver, Colorado, to Grand Junction, Colorado. Complainant stated he was unable to buy grain products, such as bran and chops, at Denver. Investigation showed that there was such a movement from nearby points, such as Montrose and Rifle; and complainant was requested to advise this Commission of the necessity of buying these products at Denver when same could be obtained at much nearer Colorado points, but no reply was received.

Charles Mantor vs. The Union Pacific Railroad Company. Shipment of furniture from Hotchkiss, Colorado, to Sterling, Colorado. The matter was taken up with the Freight Claim Agent of the Union Pacific Railroad Company. Claimant now advises that the claim has been paid in full.

A. T. Lewis & Son Dry Goods Company vs. The Adams Express Company. Delay in shipment, Chicago to Denver. Claimant requested certain information regarding such claims which was supplied by the Commission. Nothing further was heard of the matter.

W. F. Chesley. Re-consigning shipment of oil at Weskan, Kansas, reshipped to Colorado. Mr. Chesley was advised that the transaction consisted of an interstate movement, over which this Commission had no jurisdiction, and he was referred to the Interstate Commerce Commission.

A. T. Lewis & Son Dry Goods Company vs. The Pacific Express Company. Overcharge on shipment improperly routed. The Commission submitted a basis of settlement which it thought would be proper under the circumstances, and the same was accepted by both complainant and defendant.

A. T. Lewis & Son Dry Goods Company vs. The Adams Express Company. Lost shipment, New York to Denver. Information was desired as to the liability of the carrying company in the case outlined. Complainant was supplied with reference to the rulings of the Interstate Commerce Commission in such matters.

The Tilton-Stephens Lumber Company vs. The Chicago, Burlington & Quincy Railroad Company. The question was the rea-

sonableness of a rate of sixteen cents on mine props from Lyons, Colorado, to Louisville, Colorado. The matter was taken up with the transportation line, and a rate of five cents per one hundred pounds secured for the shipment in question and for future shipments.

Frank Swift vs. The Denver & Rio Grande Railroad Company. Overcharge on household goods. The Commission received a letter from complainant, setting forth the circumstances of this shipment and the overcharge. The matter was investigated by the Commission, and Mr. Swift was advised as to the proper rate, and the manner in which to take the matter up with the Railroad Company; and he later advised that these instructions had been followed and the overcharge refunded.

Cola L. Sim vs. Manitou & Pike's Peak Railway Company. An alleged overcharge. After investigation it was found that the amount of fares collected from complainant was fifty cents less than should have been collected, due to the misinterpretation of the Company's rules by the conductor, and complainant was so notified.

The Union Tea & Coffee Company vs. The Union Pacific Railroad Company. Rate on spices from the Pacific Coast to Greeley, Colorado. Complainant had been charged in excess of the Colorado Common Point rate, and applied to the Commission for relief. The Commission requested documentary evidence, and later was advised by the complainant that the Common Point rate had been protected.

C. A. Dockman vs. The Denver & Rio Grande Railroad Company. Overcharge on household goods from Canon City to Hotchkiss, Colorado. Complainant alleged that he had been charged a rate higher than the rate from Colorado Common Points. The Commission investigated and found that through an oversight the tariff from Canon City had not been revised in line with the tariff from Denver, etc., and called the attention of the defendant railroad to the status of their Canon City tariff; and the same was promptly corrected and overcharge refunded.

H. Henger vs. The Denver & Rio Grande Railroad Company. Overcharge on hay. On receipt of complaint the matter was investigated, and the Commission found there had been an overcharge in weight, which the railroad promptly corrected.

The Cotopaxi Granite Company vs. The Denver & Rio Grande Railroad Company.

Complainant alleged that the present adjustment of rates on stone from Cotopaxi to Canon City and Pueblo discriminates against the Cotopaxi Granite Company in favor of quarries at Texas Creek, Colorado. A comparison of the rates from the two points indicated that there was not a uniform basis for these rates, due probably to oversight, and the Commission wrote the defendant Railroad Company to that effect. Under date of De

ember 26 the General Freight Agent of the Denver & Rio Grande Railroad Company advises that he will publish reduced rates to both of the points, and the complainant has been so advised.

H. M. McDonald vs. Chicago, Burlington & Quincy Railroad Company.

Complainant alleged that the defendant railroad company assessed charges against bicycles transported in baggage cars. Upon examination, the Commission found that the tariff of the said railroad provides for the assessment of charges on basis of regular excess baggage rates, which is in violation of the Colorado statute (Revised statutes 1908, Sec. 5520), and so wrote the defendant railroad company who replies that without waiver of the question of the unconstitutionality of the above section, the Burlington has decided to transport bicycles as free baggage on passenger business, local to Colorado, until further ordered. The complaint is thereby satisfied.

RULES OF PRACTICE BEFORE THE STATE RAILROAD
COMMISSION OF COLORADO IN CASES AND PRO-
CEEDINGS UNDER THE ACT TO REGULATE COMMON
CARRIERS.

I.

Public Sessions.

The general sessions of the Commission for hearing contested cases will be held at its office on such days and at such hour as the Commission may designate.

When special sessions are held at other places, such regulations as may be necessary will be made by the Commission.

II.

Parties to Cases.

Any person, firm, company, corporation or association, mercantile, agricultural or manufacturing society, body politic or municipal organization, may complain to the Commission by petition, of anything done or omitted to be done, in violation of the provisions of the act to regulate common carriers, by any common carrier or carriers subject to the provisions of said act. Where a complaint relates to the rates or practices of a single carrier, no other carrier need be made a party, but if it relates to matters in which two or more carriers, engaged in transportation by continuous carriage or shipment, are interested, the several carriers participating in such carriage or shipment are proper parties defendant.

Where a complaint relates to rates or practices of carriers operating different lines, and the object of the proceedings is to secure correction of such rates or practices on each of said lines, all the carriers operating such lines must be made defendants.

Persons or carriers not parties may petition in any proceeding for leave to intervene and be heard therein. Such petition shall set forth the petitioner's interest in the proceedings. Leave granted on such application shall entitle the intervenor to appear and be treated as a party to the proceeding, but no person, not a carrier, who intervenes in behalf of the defense, shall

have the right to file an answer or otherwise become a party, except to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel on the argument of the case.

III.

Complaints.

Complaints of unlawful acts or practices by any common carrier must be by petition, setting forth briefly the facts claimed to constitute a violation of the law. The name of the carrier or carriers complained against must be stated in full, and the address of the petitioner, with the name and address of his attorney or counsel, if any, must appear upon the petition. The complainant must furnish as many copies of the petition as there may be parties complained against to be served.

The Commission will cause a copy of the petition, with notice to satisfy or answer the same within twenty days, to be served personally or by mail in its discretion, upon each carrier complained against.

IV.

Answers.

A carrier complained against must answer or satisfy the complaint within twenty days from the date of the notice above provided for, but the Commission may, in a particular case, require the answer to be filed within a shorter time. The time prescribed in any case may be extended, upon good cause shown, by special order of the Commission. The original answer, together with two copies thereof, must be filed with the Secretary of the Commission, and a copy thereof at the same time served, personally or by mail, upon the complainant. The answer must specifically admit or deny the material allegations of the petition, and also set forth the facts which will be relied upon to support any such denial. If a carrier complained against shall make satisfaction before answering, a written acknowledgment thereof, showing the character and extent of the satisfaction given, must be filed by the complainant, and in that case the fact and manner of satisfaction, without other matter, may be set forth in the answer. If satisfaction be made after the filing and service of an answer, such written acknowledgment must also be filed by the complainant, and a supplemental answer setting forth the fact and manner of satisfaction must be filed by the carrier.

V.

Notice in Nature of Demurrer.

A carrier complained against who deems the petition insufficient to show a breach of legal duty, may, instead of an-

swering, or formally demurring, serve on the complainant notice of hearing on the petition; and in such case the facts stated in the petition will be deemed admitted. A copy of the notice, with a return of service, must be filed with the Commission. The filing of an answer, however, will not be deemed an admission of the sufficiency of the petition, but a motion to dismiss for insufficiency may be made at the hearing.

VI.

Serving of Papers.

Copies of notices or other papers must be served upon the adverse party or parties, personally or by mail; and when any party has appeared by attorney, service upon such attorney shall be deemed proper service upon the party.

VII.

Amendments.

Upon application of any party, amendments to any petition or answer, in any proceeding or investigation, may be allowed by the Commission in its discretion.

VIII.

Adjournments and Extensions of Time.

Adjournments and extensions of time may be granted upon the application of any party in the discretion of the Commission.

IX.

Stipulations.

The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Secretary, agree upon the facts, or any portion thereof, involved in the controversy, which stipulation shall be regarded and used as evidence on the hearing. It is desired that the facts be thus agreed upon whenever practicable.

X.

Hearings.

Upon issue being joined by the service of an answer or notice of hearing on the petition, the Commission will assign a time and place for hearing the case, which will be at its office, unless otherwise ordered. Witnesses will be examined orally before the Commission, unless their testimony be taken or the facts be agreed upon as provided for in these rules. The complainant must in all cases establish the facts alleged to constitute a violation of the law, unless the carrier complained against admits the same or fails to answer the petition. The

carrier must also prove facts alleged in its answer, unless admitted by the petitioner, and fully disclose its defense at the hearing.

In case of failure to answer, the Commission will take such proof of the facts as may be deemed proper and reasonable, and make such orders thereon as the circumstances of the case appear to require.

Cases may be argued orally upon submission of the testimony, unless a different time shall be agreed upon by the parties or directed by the Commission, but oral argument may be omitted in the discretion of the Commission.

XI.

Deposition.

The testimony of any witness may be taken by deposition, at the instance of a party, in any proceeding or investigation before the Commission, and at any time after the same is at issue. The Commission may also order testimony to be taken by deposition, in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Reasonable notice must be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition, and a copy of such notice shall be filed with the Secretary.

When testimony is to be taken on behalf of a common carrier in any proceeding instituted by the Commission on its own motion, reasonable notice thereof in writing must be given by such carrier to the Commission itself, or to such person as may have been previously designated by the Commission to be served with such notice.

Depositions shall conform to the provisions of the Code of Procedure governing courts of this State as near as possible.

XII.

Witnesses and Subpoenas.

Subpoenas requiring the attendance of witnesses to any designated place of hearing, for the purpose of taking the testimony of such witnesses orally before one or more members of the Commission, will, upon application of either party, or upon the order of the Commission directing the taking of such testimony, be issued by any member of the Commission.

Subpoenas for the production of books, papers or documents (unless directed to issue by the Commission upon its own motion) will only be issued upon application in writing; and when it is sought to compel witnesses not parties to the proceeding, to produce such documentary evidence, the application must be

sworn to and must specify, as nearly as may be, the books, papers or documents desired; that the same are in the possession of the witness or under his control; and also, by facts stated, show that they contain material evidence necessary to the applicant. Applications to compel a party to a proceeding to produce books, papers or documents need only set forth in a general way the books, papers or documents desired to be produced, and that the applicant believes they will be of service in the determination of the case.

XIII.

Rehearings.

Applications for re-opening a case after final submission, or for re-hearing after decision made by the Commission, must be by petition, and must state specifically the grounds upon which the application is based. If such application be to re-open the case for further evidence, the nature and purpose of such evidence must be briefly stated, and the same must not be merely cumulative. If the application be for re-hearing, the petition must specify the findings of the fact and conclusions of law claimed to be erroneous, with a brief statement of the grounds of error; and when any recommendation, decision or order of the Commission is sought to be reversed, changed or modified on account of facts and circumstances arising subsequent to the hearing of or consequences resulting from compliance with such recommendations, decision or order which are claimed to justify a reconsideration of the case, the matter relied upon by the applicant must be fully set forth. Such petition must be duly verified, and a copy thereof, with notice of the time and place when the application will be made, must be served upon the adverse party, at least one day before the time named in such notice.

XIV.

Printing of Pleadings, Etc.

Pleadings, depositions, briefs and other papers of importance, when not printed, only one side of the paper shall be used.

XV.

Copies of Papers or Testimony.

Copies of any petition, complaint or answer in any matter or proceeding before the Commission, or of any order, decision or opinion by the Commission, will be furnished without charge, upon application to the Secretary by any person or carrier party to the proceeding.

XVI.

Compliance With Orders Against Carriers.

Upon the issuance of an order against any carrier or carriers, such carrier or carriers must promptly, upon compliance with its requirements, notify the Secretary that action has been taken in conformity with the order; and when a change in rates is required, such notice must be given in addition to the filing of a schedule or tariff showing such change in rates.

XVII.

Information to Parties.

The Secretary of the Commission will, upon request, advise any party as to the form of petition, answer or other paper necessary to be filed in any case, and furnish such information from the files of the Commission as will conduce to a full presentation of facts material to the controversy.

XVIII.

Address of the Commission.

All complaints concerning anything done or omitted to be done by any common carrier, and all petitions or answers in any proceeding, or applications in relation thereto, and all letters and telegrams for the Commission, must be addressed to the Secretary at Denver, unless otherwise specially directed.

FORMS—FOR PETITIONS.

Adopted by the State Railroad Commission.

These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary.

I.

Complaint Against a Single Carrier.

A. B. against The Company.

The petition of the above named complainant respectfully shows:

1. That (here let complainant state his occupation and place of business).

2. That the defendant above named is a common carrier engaged in the transportation of passengers and property by railroad between and in the State of Colorado, and as such common carrier is subject to the act to regulate common carriers.

3. That (here state concisely the matters intended to be complained of. Continue numbering each succeeding paragraph as in Nos. 1, 2 and 3).

Wherefore, the petitioner prays that the defendant may be required to answer the charges herein, and that after due hearing and investigation an order be made commanding the defendant to cease and desist from said violations of the act to regulate common carriers and for such other and further order as the Commission may deem necessary in the premises.

(If reparation for any wrong or injury be desired, the petitioner should state the nature and extent of the reparation he deems proper.)

Dated at, 190..
.....Signature.

State of, County of ss.

A. B., being duly sworn, says that he is the complainant in this proceeding, and that the matters and things set forth in the foregoing petition are true of his own knowledge.

A. B.
Subscribed and sworn to before me this day of
C. D.,
Notary Public.

(Or other officer authorized to administer oaths.)

II.

Complaint Against Joint or Connecting Carriers.

State Railroad Commission.

A. B. against The Company (here set out in full the titles of the several carriers complained against).

The petition of the above named complainant respectfully shows:

1. That (here let complainant state his occupation and place of business).

2. That the defendants above named are common carriers, and under a common control, management or arrangement, for continuous carriage or shipment, are engaged in the transportation of passengers and property wholly by railroad between and, in the State of Colorado, and as such common carriers are subject to the act to regulate common carriers.

(Then proceed as in Form No. 1.)

DISBURSEMENTS OF THE STATE RAILROAD
COMMISSION.

June 20, 1907, to December 1, 1908.

Salary of Commissioners.....	\$12,999.99
Salary of clerk.....	2,145.83
Salary of stenographer.....	1,733.33
Extra stenographic service at hearing at Vona.....	40.15
Postage	238.00
Supplies	118.45
Fees in United States Court, D. & R. G. R. R. et al. vs. State Railroad Commission.....	130.00
Western Union Telegraph Company.....	1.05
Salary and expenses of John G. Smart, inspector.....	534.55
Traveling expenses of Commission.....	29.05
Total	\$17,970.40

RAILROAD MILEAGE IN THE STATE OF COLORADO.

Name of Road	From	To	Miles Standard Gauge	Miles Narrow Gauge	Miles Operated Over Other Roads
Argentine Central R.V.	Silver Plume	Waldorf		15.00	
Atchison, Topeka & Santa Fe R.V.	Denver	La. Junta	179.76		
	La. Junta	Kansas line	84.99		
	La. Junta	New Mexico line	96.32		
	Pueblo	Canon City	40.23		
	Clellan	Rockvale	3.53		
	Rocky Ford	Delta	77.38		
	Lamar Branch		3.77		
	Las Animas Branch		2.21		
	Swink Branch		5.24		
	Total		393.43		
*Book Cliff R. R.	Grand Junction	Book Cliff		12.00	
Chicago, Burlington & Quincy R. R.	Denver	Colorado State line	174.89		
	Denver	Utah Junction, Colo.	3.00		
	Burns Junction	Lyons, Colo.	32.67		
	Colorado State line	Wyoming State line	144.58		
	Nebraska State line	Sterling	27.85		
	Union	Brush	11.39		
	Leased of C. & S. R.V.		11.30		
	Leased of U. P. R. R.		23.67		
	Total		429.35		

*Industrial

RAILROAD MILEAGE IN THE STATE OF COLORADO (Continued).

Name of Road	From	To	Miles Standard Gauge	Miles Narrow Gauge	Miles Operated Over Other Roads
Chicago, Rock Island & Pacific Ry.....	Colorado Springs	Kanorado	166.84		
	Limon	Denver, U. P. R. R.....			84.78
	Denver	Pueblo, D. & R. G.....			119.60
	Total		166.84		209.38
Colorado Eastern R. R.....	Denver	Scranton		16.30	
Colorado Midland Ry.....	Colorado Springs	New Castle	221.92		
	Basalt	Aspen		19.37	
	Cardiff	Spring Gulch		15.01	
	Arkansas Junction	Leadville		4.80	
	Rifle Creek	End of R. G. Jet, Ry.....			62.08
	End of C. M. Ry.....	Rifle Creek			13.44
	End of R. G. Jet, Ry.....	Grand Junction			.57
	Colorado Springs	C. M. Ry. Jet.....			.45
	Total		561.10		76.54
Colorado Northwestern R. R.....	Boulder	Eldora		33.37	
	Sunset	Ward		13.42	
	Total			46.79	
Colorado & Southern Ry.....	Denver	Greeley	98.46		
	Louisville	Lafayette	3.78		
	D. & I. Junction.....	Boulder Junction	11.47		

Colorado & Southern Ry.—Continued.....	Argo Junction	Golden	13.72	.....
	Golden	Silver Plume .....	.....	38.75
	Forks Creek	Central City .....	.....	11.81
	Jersey	Cut-Off Junction	2.51	.....
	Denver	Southern Junction	129.34	.....
	Manitou Junction	Colorado Springs	9.12	.....
	Walsenburg Junction.....	Trinidad	41.52	.....
	Trinidad	New Mexico line.....	51.38	.....
	Trinidad	End of track.....	7.37	.....
	Denver	Leadville .....	.....	151.88
	Sheridan Junction.....	Morrison .....	.....	9.96
	Dickey	Dillon .....	.....	2.75
	Como	Baldwin .....	.....	131.05
	Garos	Alma .....	.....	15.41
	Schwanders	Buena Vista .....	.....	3.98
	Fort Collins.....	Stout	12.25	.....
	Loveland	Arkins	8.34	.....
	Denver, West.....	Side line	4.85	.....
	Boulder	Conn. Con. tracks.....	.64	.....
	Lowrie Quarry.....	.....	2.81	.....
	Golden	Church brick yard.....	1.70	.....
	Pueblo Freight House track.....	.....	.56	.....
	Acme	Broadhead Junction.....	2.15	.....
	Junction No. 4.....	Green Con. mine.....	1.05	.....

RAILROAD MILEAGE IN THE STATE OF COLORADO (Continued).

Name of Road	From	To	Miles Standard Gauge	Miles Narrow Gauge	Miles Operated Over Other Roads
Colorado & Southern Ry.—Continued.....	Ludlow	Hastings	1.28	.....	.....
	Ludlow	Berwind	3.20	.....	.....
	Forbes Junction	Chicosa Junction.....	1.16	.....	.....
	Beshoar Junction	Gray Creek mine.....	7.85	.....	.....
	Sopris	Sopris mine	.66	.....	.....
	South Platte	Night Hawk.....	.....	4.28	.....
	Dillon	Keystone	.....	4.29	.....
	Kokomo	Wilfley mill	.....	1.11	.....
	Como	King	.....	.26	.....
	Leadville	Mineral Belt Ry.....	.....	2.46	.....
	Hilltop Junction	Leavick	.....	11.32	.....
	Castleton	Mt. Carbon.....	.....	2.49	.....
	Colo. R. R. Co.....	.....	.....	.....	37.79
	D. & R. G. R. R.....	.....	.....	.....	58.65
	U. P. R. R.....	.....	.....	.....	93.65
	Total	.....	47.17	391.79	190.69
Colorado Springs & Cripple Creek District Ry.....	Colorado Springs.....	Cripple Creek.....	46.62	.....	.....
	Spurs to various mines.....	.....	27.68	.....	.....
	Total	.....	74.30	.....	.....

Colorado & Southeastern Ry.....	Delagua	Barnes	6.27	.....	.....
Over C. & S. Ry.....	.....	.....	.....	.....	14.51
Colorado & Wyoming Ry.....	Carbondale	Placita	41.83	.....	.....
Crystal River R. R.....	Redstone	Coal Basin	20.60	.....	11.83
Crystal River & San Juan R. R.....	Marble	Redstone	7.40	.....	3.50
Denver, Northwestern & Pacific Ry.....	Denver	Steamboat Springs.....	214.00	.....	.....
Denver & Inter-Mountain.....	.....	.....	15.32**	.....	.....
Denver & Rio Grande R. R.....	Denver	Utah line	421.82	.....	***62.08
Military Junction.....	.....	Fort Logan.....	2.51	.....	.....
Castle Rock.....	.....	Stone quarries	2.87	1.39	.....
Colorado Springs.....	.....	Manitou	5.14	.....	.....
Florence .....	.....	Coal Creek.....	3.19	.....	.....
Chandler Junction.....	.....	Mines	6.50	.....	.....
Texas Creek.....	.....	Westcliffe	25.49	.....	.....
Howard .....	.....	Calte	5.83	.....	.....
Heckler Junction .....	.....	Calumet .....	.....	7.13	.....
Malta .....	.....	Leadville	8.13	.....	.....
Branches in Leadville district.....	.....	.....	3.77	7.89	.....
Leadville .....	.....	Dillon .....	.63	35.65	.....
Glenwood Springs.....	.....	Aspen	42.46	.....	.....
Grand Junction.....	.....	Sugar works.....	1.17	.....	.....
Pueblo .....	.....	Trinidad	91.55	.....	.....

**Includes 3.71 miles electric.

***Rio Grande Junction Ry.

RAILROAD MILEAGE IN THE STATE OF COLORADO (Continued).

Name of Road	From	To	Miles Standard Gauge	Miles Narrow Gauge	Miles Operated Over Other Roads
Denver & Rio Grande R. R.—Continued.....	Zinc Junction.....	Blende	3.36	.....	.....
	Rouse Junction.....	Mines	9.89	.....	.....
	Engleville Junction.....	Mines	6.40	.....	.....
	Trinidad	Cokedate	1 01	.....	6.62
	Cuchara	Creede	153.22	.....	.....
	Walsenburg	Big 4 mines.....	14.28	.....	.....
	Francisco	Oakdale mine	1.95	.....	.....
	Salida	Grand Junction (Gunnison).....	73.88	135.04	.....
	Poncha Junction.....	Monarch .....	.....	15.66	.....
	Gunnison	Anthracite and Floresta.....	.....	43.92	.....
	Lake Junction.....	Lake City.....	.....	35.84	.....
	Montrose	Ouray .....	.....	35.06	.....
	Delta	Somerset mine.....	.....	.....	.....
	Mears Junction.....	Alamosa .....	.....	73.44	.....
	Alamosa	Silverton (Colo. portion).....	31.58	141.38	.....
	Orient Junction.....	Orient .....	.....	8.20	.....
	Moffat	Cottonwood .....	.....	16.96	.....
	Antonito	Santa Fe (Colo. portion).....	.....	5.60	.....
	Pagosa Junction	Pagosa Springs.....	.....	30.85	.....
	Carbon Junction.....	Farmington (Colo. portion).....	.....	18.15	.....

Denver & Rio Grande R. R.—Continued.....	Durango	Smelter	1.00	.....
	Silverton	Smelter .....	.96	.....
	Total		<u>598.07</u>	<u>68.70</u>
Florence & Cripple Creek R. R.....	Florence	Cripple Creek.....	39.53	.....
	Cyanide Junction.....	Vesta .....	.94	.....
	C. C. & C. C. R. R.....		7.24	.....
	Golden Circle R. R., Victor.....	End of track.....	5.71	.....
	Last Dollar.....	Lily .....	.88	.....
	M. P. 4.....	Shurtzloff .....	.54	.....
	Total		<u>54.84</u>	.....
Great Western Ry.....	Longmont	Eaton	41.65	.....
	Officer Junction.....	Loveland	6.60	.....
	Wely Junction.....	Wely	6.00	.....
	Hillsboro Junction.....	Hillsboro	2.19	.....
	Total		<u>56.44</u>	.....
Manitou & Pike's Peak Ry.....			8.70	.....
Midland Terminal Ry.....	Divide	Cripple Creek	29.40	.....
Missouri Pacific Ry.....	Pueblo	Kansas line	152.12	.27
Northwestern Terminal Co.....	Denver		3.13	.....
Noland Land & Transfer Co.....	Noland	Beach Hill	3.50	.....
Pueblo Union Depot & Railroad Co.....			2.45	.....
†Rio Grande & Pagosa Springs R. R.....	Edith	Chambers	30.50	.....
‡Rio Grande Junction Ry.....	Rife	Grand Junction.....	62.08	.....

‡Logging road.

‡Owned jointly by D. & R. G. R. R. and Colo. Mid. Ry.

RAILROAD MILEAGE IN THE STATE OF COLORADO (Concluded).

Name of Road	From	To	Miles Standard Gauge	Miles Narrow Gauge	Miles Operated Over Other Roads
Rio Grande Southern R. R.	Ridgway	Durango	.....	162.10	.....
	Vance	Telluride	.....	7.30	.....
	Pandora Branch		.....	1.50	.....
	Black Hawk Branch		.....	2.35	.....
	Enterprise Branch		.....	1.20	.....
	Total		.....	174.45	.....
Rocky Mountain Ry.	Granby	Monarch	.....	16.00	.....
Silverton Ry.	Silverton	Joker tunnel	.....	16.00	.....
Silverton, Gladstone & Northerly R. R.	Silverton	Gladstone	.....	7.00	.....
Silverton Northern R. R.	Silverton	Animas Forks	.....	13.00	.....
Uintah Ry.	Mack	State line	.....	50.80	.....
Union Depot & Railway Co.	Denver	Denver	.....	3.41	.....
Union Pacific R. R.	Denver	Kansas line	.....	194.14	.....
	Denver	Wyoming line	.....	93.09	.....
	LaSalle	Nebraska line	.....	151.53	.....
	Julesburg, West	Nebraska line	.....	8.86	.....
	Denver	Boulder	.....	26.53	.....
	Total		.....	474.15	.....
Grand Total—All roads			.....	2,014.46	.....
					535.83

