Reports of Decisions

OF

The Public Utilities Commission

OF THE

State of Colorado

From December 1, 1914, to January 1, 1916

Volume I

Containing also the Public Utilities Act, Rules of Practice and Procedure, General Orders and Accident Reports

Compiled, at the direction of the Commission, by C. E. Neil

THE SMITH-BROOKS PRESS, DENVER

MEMBERS
OF THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

S. S. KENDALL, Chairman,
*A. P. ANDERSON,
GEORGE T. BRADLEY,
M. H. AYLESWORTH.

GEORGE F. OXLEY, Secretary.

Denver, Colorado

*Term expired January 12, 1915, and was succeeded by M. H. Aylesworth.

CONTENTS

SECTION 1.

	Page
Table of Cases Reported	5
Table of Cases Cited	7
Decisions of the Commission	9
Index-Digest	215

SECTION 2.

General Orders	239

SECTION 3.

Accident Reports	249

SECTION 4.

Public Utilities Act	267
Index to the Act	299

SECTION 5.

Rules of Practice and Procedure	313
Index to Rules of Practice and Procedure	329

TABLE OF CASES REPORTED

Page

Arkansas Valley Electric Company, et al.; City of Florence v..... 75

Breckenridge Chamber of Commerce v. The C. & S. Ry. Co..... 137

Castle Rock Mountain Railway & Park v. The Denver Tramway Company, et al.....104, 126
City of Canon City v. F. & C. C. R. R. Co., et al.....86, 103
City of Florence v. The Arkansas Valley Electric Co., et al..... 75
Cochems v. D. & R. G. R. R. Co..... 149
Colburn v. F. & C. C. R. R. Co..... 107
Colorado & Southern Railway Company; Breckenridge Chamber of Commerce v..... 137
Colorado & Southern Railway Company, et al.; Greeley Gas & Fuel Company v..... 197
Colorado Midland Railway Company v. M. T. Ry. Co. et al..... 18
Colorado Power Company; The Primos Mining & Milling Co. v..... 211
Colorado Springs Light, Heat & Power Company; Haines v..... 145
Colorado Springs Light, Heat & Power Company, In Re Rates and Rules of 159, 209
Continental Junk House (See Radinsky v. F. & C. C. R. R. Co. et al.)

Denver & Rio Grande Railroad Company; Cochems v..... 149
Denver & Rio Grande Railroad Company, et al.; Grand Valley Fruit Freight Rate Association v..... 111
Denver Tramway Company, et al.; Castle Rock Mountain Railway & Park v. 104, 126

Florence & Cripple Creek Railroad Company;
City of Canon City v.....86, 103
Colburn v. 107
Florence & Cripple Creek Railroad Company, et al.; Radinsky v..... 13

Grand Valley Fruit Freight Rate Association v. D. & R. G. R. R. Co., et al. 111
Great Western Railway Company; Johnstown Commercial Club v.... 31
Greeley Gas & Fuel Company v. C. & S. Ry. Co., et al..... 197

Haines v. The Colorado Springs Light, Heat & Power Company..... 145

IN RE:
Additional train fares 9
Advance in freight rates of D. B. & W. R. R. Co..... 33
Crossing protections at Barrow Mesa, on D. & R. G. R. R..... 123

Page

Crossing protections at Florida Avenue, Denver, on A. T. & S. F. Ry. and D. & R. G. R. R. 155
Crossing protections at Iowa Avenue, Denver, on A. T. & S. F. Ry. and D. & R. G. R. R. 155
Crossing protections at Lereaux Creek on D. & R. G. R. R. 123
Crossing protections at Mexico Avenue, Denver, on A. T. & S. F. Ry. and D. & R. G. R. R. 155
Crossing protections at 12th Street, Boulder, on C. & S. Ry. 157
Crossing protections at Yuma, on C. B. & Q. R. R. 84
Demurrage Charges and Rules 21
Delivery Rules of Telegraph Companies 142
Eastern Colorado Coal Rates 48, 90, 91, 92, 93, 94, 99
Extension of telephone line from Genoa to Burlington 194
Passenger rates between Divide and Cripple Creek 20
Passenger rates between Pueblo, Trinidad and Canon City 19
Passenger rates and rules of all carriers 35
Rates and rules of Colorado Springs Light, Heat & Power Co. . 159, 209
Train Service of The Denver & Intermountain Railroad Co. 67
Train Service of The Great Western Railway Company 205
Train Service and Rules of The Denver & Interurban Railroad Company 69

Johnstown Commercial Club v. G. W. Ry. Co. 31

Midland Terminal Railway Company, et al.; C. M. Ry. Co. v. 18

Primos Mining & Milling Company v. The Colorado Power Co. 211

Radinsky v. F. & C. C. R. R. Co., et al 13

Vallery v. M. T. Ry. Co., et al 18

TABLE OF CASES CITED

Page

Bishop & Chapter of Cathedral, etc., v. Treasurer, etc., of Denver, 37 Colo., 378; 86 Pac., 1021 153

Board of Railroad Commissioners of Kansas v. A. T. & S. F. Ry. Co., et al., 22 I. C. C., 407 115

City of Benwood v. Public Service Commission of W. Va., 83 S. E., 295; L. R. A., 1915C, 261 136

City of Spokane, et al. v. N. P. Ry. Co., et al., 15 I. C. C., 376 201

Colorado & Southern Ry. Co. v. State Railroad Commission, et al., 54 Colo., 64; 129 Pac., 506 135

Columbia Gold Mining Co. v. O. W. R. R. & N. Co., et al., 35 I. C. C., 42 201

Commercial Club of Greeley v. C. & S. Ry. Co., et al., Colo. P. U. Comm., 1st Ann. Rep., 117 200

Donovan v. Penn. Co., 199 U. S., 279 133

Garwood v. C. & S. Ry. Co., et al., Colo. P. U. Comm., 1st Ann. Rep., 55 200

In Re:

Eastern Colorado Coal Rates, 1 Colo. P. U. C., 48 201

Wool, hides and pelts, 23 I. C. C., 151 115

Kalamazoo Hack & Bus Co. v. Sootsma, 84 Mich., 194; 47 N. W., 667 ... 133

Kiernan v. City of Portland, et al., 57 Ore., 454; 111 Pac., 379; 112 Pac., 402; 37 L. R. A. (N. S.), 339 130

Lindsay Bros. v. P. M. R. R. Co., 25 I. C. C., 368 115

Louisville & Nashville R. R. Co. v. Mottley, 219 U. S., 467 135

McConnell v. Pedigo, et al., 92 Ky., 465; 18 S. W., 15 133

Missouri Pacific Ry. Co., et al., v. Kansas, ex rel., Taylor, 216 U. S., 262 135

Newport Mining Co. v. C. & N. W. Ry. Co., 33 I. C. C., 645 201

Northern Pacific Ry. Co. v. North Dakota, ex rel., McCue, 236 U. S., 585 133

Palmer Transfer Co. v. Anderson, 131 Ky., 217; 115 S. E., 182 133

Ponchatoula Farmers' Association v. I. C. R. R. Co., 19 I. C. C., 513 ... 115

Portland Railway, Light & Power Co. v. City of Portland, 210 Fed., 667 136

Pulp & Paper Manufacturers Traffic Association v. C. M. & St. P. Ry. Co., et al., 27 I. C. C., 83 115

Page

Red Line Tourists Agency v. S. P. Co., et al., 3 Cal. R. C., 526..... 133
Riggs v. City of Grants Pass, 134 Pac., 776..... 130

Southern Wire Co. v. St. L. B. & T. Ry. Co., 38 Mo. App., 191..... 135
State, ex rel., Webster v. Superior Court, etc., 67 Wash., 37; 120 Pac., 861 136
Steelman v. C. & E. I. R. R. Co., Ind. P. S. Comm., April 23, 1915.... 133
Straw v. Harris, et al., 54 Ore., 424; 103 Pac., 777..... 130
Suffern Grain Co. v. I. C. R. R. Co., 27 I. C. C., 192..... 201

Transportation Bureau of Wichita v. St. L. & S. F. R. R. Co., 23 I. C. C., 679 55
Troy, et al., v. L. V. R. R. Co., N. Y. P. S. Comm., 2nd Dist., July 8, 1908 133

Union Depot & Ry. Co. v. Meeking, 42 Colo., 89; 94 Pac., 16..... 133

Wolverton v. Mountain States T. & T. Co., 58 Colo., 58; 142 Pac., 165.. 135

DECISIONS

OF THE

PUBLIC UTILITIES COMMISSION

OF THE

STATE OF COLORADO.

In Re: ADDITIONAL TRAIN FARES.

(Case No. 3.)

(1) *Rates—Railroads—Excess train fares.*

Common carriers in Colorado should uniformly charge passengers who board trains without providing themselves with tickets, in case they have had opportunity to do so, an excess fare or something more than the ticket rates.

(2) *Rates—Railroads—Excess train fares—Benefit to public and carriers.*

Excess fares, or train rates, should be collected from passengers who, without reasonable excuse, board trains without having purchased tickets, since the primary object of charging train rates, in excess of ticket rates, is to induce passengers to purchase tickets so as to enable conductors to have time to devote to the proper and safe handling of their trains.

(3) *Rates—Railroads—Excess train fares—Penalty.*

Train fares, in excess of ticket rates, collected from passengers, not provided with tickets, who have had reasonable opportunity to purchase them, should be considered a penalty and retained by the carrier rather than refunded by means of a refund check.

(4) *Rates—Electric Railways—Excess train fares.*

Electric and interurban railways exempt from order permitting steam railroads to charge train fares, in excess of ticket fares, collected from passengers not provided with tickets who have had reasonable opportunity to purchase them.

(December 11, 1914.)

INVESTIGATION upon the Commission's own motion of the practice of railroads with reference to the charging and collecting of train fares, or fares in excess of ticket rates, in cases where passengers neglect to avail themselves of the opportunities provided by the company for purchasing tickets; carriers authorized to collect excess fare of 10 cents on amounts up to 50 cents, 15 cents on amounts up to $1, 20 cents on amounts up to $1.50,

and 25 cents on amounts over $1.50, provided that no excess charge be made if passengers are, for any reason, unable to purchase tickets, such fares to be non-refundable and ruling not to apply to electric or interurban lines.

By the Commission:

On October 8, 1914, the Commission instituted this proceeding, on its own motion, for the purpose of investigating the rules and practices of the different common carriers within the State of Colorado in regard to charging excess passenger fares and the refunding of the same. It had appeared to the Commission, through informal complaints, that some of the carriers were charging excess passenger fares over and above a reasonable amount. The different carriers were all duly notified of the time and place of this hearing, and on the 26th day of October, 1914, the Commission proceeded to prosecute this inquiry, practically all of the respondent companies being present. A great many witnesses were produced and examined under oath, and the evidence shows that the work incident to the collection of cash fares, in looking up rates, making change, and answering questions relative to the distance and amount of fares, takes up a great deal of time, more than simply collecting tickets. It appears from the evidence of Mr. J. P. Hall, general agent of The Atchison, Topeka & Santa Fe Railway Company, that the temptation not to report cash fares is great, and that the railroad company might often fail to receive cash fares at all. It also appears from the evidence that an excess cash fare should be charged in order to impel the purchase of tickets at stations where passengers board trains; that by so charging and collecting excess cash fares the tendency is to reduce the number of cash fares collected, thereby increasing the purchase of tickets and allowing the railroad company to obtain more full and better information in regard to the number of passengers carried.

It also appears from the evidence that the practice of charging excess cash fares in Colorado is not general. The Atchison, Topeka & Santa Fe Railway Company has two sets of tariffs: one is train fares used by conductors, being based on four cents (4c) per mile within the State of Colorado; the other is the agent fares, based on three cents (3c) per mile within the State of Colorado.

It also appears from the evidence that in some parts of the state—viz.: between Pueblo and Denver, and between Pueblo and Canon City—the excess one cent (1c) per mile fare is not in force; that is, no excess at all is charged between these points.

It also appears that the Union Pacific Railroad Company has an excess fare of twenty-five cents (25c), which is refunded, on application, to the passenger. On other roads flat excess fares

are charged, the maximum in most instances being fifty cents (50c).

It also appears from the evidence that other railroads, such as The Denver & Rio Grande, The Colorado & Southern, The Colorado Midland, charge no excess fares. In the case of the Santa Fe, Rock Island, Missouri Pacific, and other roads no excess fares are refunded.

The hearing before the Commission was quite general and exhaustive, and, from the evidence produced, the Commission is of the opinion that one system should be adopted throughout the State of Colorado. (1) The Commission also finds that it would be to the best interests of the different common carriers and the general public that a small uniform excess cash fare be charged. (2) This would induce the general traveling public to purchase tickets on boarding trains and, in this way, better enable the common carriers to check and ascertain the exact number of passengers carried and the exact earnings of the companies in carrying passengers. The Commission believes that this practice will have a tendency to allow the companies to collect fares from all persons whom they carry, and will give them a better check on the same. (3) The Commission is also of the opinion that, in order to accomplish this object, it is better that no cash fares be refunded; also, that at the stations where there are no agents, or where a passenger is unable to purchase a ticket for any reason, no excess fares should be charged.

(4) The Commission is also of the opinion that street cars within cities and towns, and interurban electric railways, should be exempt from this order, for the reason that it is a general practice on these railways to collect cash fares, and, as a rule, no tickets are sold to passengers on these cars. It is also of the opinion that this order should be limited to steam railways, and that any steam railways operating suburban or interurban electric cars in connection with their steam railway operations, in these instances, the said suburban or interurban railways should be exempt from this order.

ORDER

It Is, Therefore, Ordered, By the Public Utilities Commission of the State of Colorado, that all passengers boarding trains without tickets at stations where tickets are sold, and where the passenger has had a reasonable opportunity to purchase a ticket before boarding the train, may be required to pay the following schedule of excess cash fares, in addition to the regular published tariff of fares in existence and on file with this Commission:

Where the fare is 50 cents or less, an excess of 10 cents;

Where the fare is more than 50 cents and not more than $1, an excess of 15 cents;

Where the fare is more than $1 and not more than $1.50, an excess of 20 cents; and

Where the fare is more than $1.50, an excess of 25 cents.

Provided, however, that where a passenger boards a train at a non-agency station, or where for any reason he is unable to purchase a ticket, no excess fare may be charged; and provided, further, that all passengers may have the privilege of purchasing tickets at the first station where tickets are sold and at which the train stops, in which case the excess scale herein provided to such station shall apply.

For a child of five (5) years of age and under twelve (12) years of age, one-half of the ticket fare, as shown in the tariff for adults, shall be charged, and one-half of the excess fare provided above may be added, with enough more sufficient to make the fare end in 0 or 5. The different common carriers to which this order applies will be allowed to retain all excess cash fares collected in accordance with this order.

This order, rule, and regulation shall apply to common carriers operating steam railways within the State of Colorado, and shall not apply to any interurban or suburban electric or street railways, nor to such railways when operated by steam railway companies.

This order shall become effective and be in full force on and after the first day of January, 1915.

(SEAL)

A. P. ANDERSON,
S. S. KENDALL,
GEORGE T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 11th day of December, 1914.

ABRAHAM D. RADINSKY

v.

THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, THE COLORADO & SOUTHERN RAILWAY COMPANY.

(Case No. 7.)

(1) *Misbilling—Railroads—Penalty.*

Car of rags—in the instant case—having been misbilled, Commission is of the opinion that a mode of punishment and penalty should be provided in Colorado for misbilling.

(2) *Rates—Railroads—Reasonableness—Voluntary.*

Voluntary rate in effect both prior and subsequent to date of complainant's shipments prima facie evidence as to reasonableness of same rate ad interim.

(3) *Reparation—Railroads.*

Where a rate charged for transporting shipments was found to be unreasonable, reparation was awarded to the extent that the charges exceeded the charges based on the rate found to be reasonable.

(December 23, 1914.)

COMPLAINT as to rates on sacks, less carloads, and rags, carloads, from Cripple Creek to Denver, and claim for reparation; rate on sacks held reasonable; rate on rags reduced; reparation awarded.

By the Commission:

The complainant filed his complaint in this case on November 14, 1914, and on November 24, 1914, the respondents herein filed their respective answers. The points contended for by the respective parties and the issues in this case are as follows:

On August 10, 1914, one A. Peterman tendered to The Florence & Cripple Creek Railroad Company his bill of lading for car No. 14088, the contents being described therein as 30,000 lbs. of junk, to be shipped from Cripple Creek over The Florence & Cripple Creek Railroad and The Colorado & Southern Railway to Denver, billed to The Continental Junk Company of Denver, Colo-

rado. On the arrival of the shipment in Denver The Colorado & Southern Railway Company presented to The Continental Junk Company its freight bill for the said shipment, on which charges of $228.00 were assessed as the freight charges on the same, and which shipment was described as "second-hand bags," 30,000 lbs., at the rate of 65 cents per cwt., making $195.00, and "rags in sacks and bundles," 4,400 lbs., at the rate of 75 cents per cwt., making the total charge, as aforesaid, of $228.00 for the said shipment.

The complainant contends that he knew nothing of the shipment to him until the same had been loaded and billed to him in Denver. Complainant further claims that on the 10th day of August, 1914, he received the said car, which contained 21,955 lbs. of rags, and 1,350 lbs. of second-hand gunny sacks; and that respondents rendered him a freight bill, No. 3447, on which there was charged, and on which complainant paid to the respondents for the said shipment, the sum of $228.00. Complainant further claims that he has been overcharged for this shipment, and that a reasonable charge on the same would be $48.00. He asks that an order be made herein fixing charges and reasonable rates for the transportation of rags and gunny sacks from Cripple Creek to Denver.

The respondents, in their respective answers to said petition, deny that the shipment consisted of 21,955 lbs. of rags and 1,350 lbs. of second-hand gunny sacks, but admit that they collected from complainant the sum of $228.00 as transportation charges on the same. Deny that the charges were excessive, unjust or extortionate, and allege that the charges were in accordance with the provisions of the tariffs of respondents, and that the same were fair and just.

The real contention in this case seems to be as to how the carload shipment should have been classified, the respondents contending that there were more second-hand bags than there were rags in the carload, and that the carload should be assessed at the minimum weight of 30,000 lbs. per carload for the bags, at the rate of 65 cents per cwt., and 4,400 lbs. of rags at the rate of 75 cents per cwt., in this manner making up the $228.00 charged. The petitioner herein contends that there were actually 21,955 lbs. of rags in the car, and 1,350 lbs. of second-hand bags in the car, and that the car should not have been assessed in this manner, but should have been assessed for the carload at a minimum of 24,000 lbs., at 20 cents per cwt., making the charges $48.00.

FINDINGS OF FACT.

It appears from the evidence that the consignor billed this car to The Continental Junk Company as "junk," the complain-

ant contending that he had nothing to do with the billing of the car, and did not know of its contents until its arrival in Denver. (1) It is evident to the minds of the Commission that this car was misbilled, and the Commission is unanimous in its opinion that whether the responsibility for the misbilling of this car lies with the consignor or The Continental Junk Company, some mode of punishment should be provided for just such cases and that a heavy penalty should be enforced against the offending party. However, from the evidence in this case, the Commission has tried to get at the facts as to the real contents of this car, and as to the just and reasonable assessment of rates that should be made thereon.

The complainant, Mr. Abraham D. Radinsky, testified that, after the car arrived in Denver, he and Miss Leah Sach weighed the rags, and that the correct weight of the same was 21,955 lbs. This testimony was corroborated by Miss Sach, who testified that she saw the car unloaded and personally weighed all but two or three wagon-loads of the rags contained in the car; that these remaining two or three wagon-loads were weighed while she was at dinner, and that the weight slips thereof were given to her; that she figured them up and gave them to Mr. Radinsky. Mr. Radinsky also testified that he added up the total weights and entered them in a book, and the book containing this entry Mr. Radinsky identified and testified that he made the original entry therein and he knew that it was correct. The complainant also testified that the sacks were not weighed, but that there were 2,255 sacks in the car, and that they would not weigh more than 80 lbs. to each 100 sacks.

Mr. William Walsh, of Cripple Creek, a witness for respondents, testified that he is an inspector for The Western Weighing and Inspection Bureau; that he saw the car in Cripple Creek when the same was being loaded; that when he saw the car it was about one-half to two-thirds loaded; that, in his opinion, when he saw the same there was from 10,000 to 15,000 lbs. of sacks in the car; that there was about as much rags as sacks in the car at that time; that the car was pretty evenly divided—about half and half; that he did not stay to see the finishing of the loading of the car, but that he notified the proper authorities in Denver to inspect the car on its arrival. It is in evidence that the minimum weight of this car was 30,000 lbs. If the car was from one-half to two-thirds loaded, and there was at that time from 10,000 to 15,000 lbs., each equally divided, of rags and bags, according to these figures the car would hold from 40,000 to 60,000 lbs.

Mr. Corn, a witness for respondents, testified that, when the car arrived in Denver, he went into the car and inspected the same; and when he broke the seal all he could see from the door was rags; that he re-sealed the car and called up The Con-

tinental Junk Company, and that the phone was answered by the witness, Miss Sach; that he asked for a check on the car and witness Sach told him that they did not have a check at that time; that afterwards he made another inspection of the contents of the car; that he saw the sacks in the car; that the same were tied in bundles of 50 each, representing about the size of a sack of bran; that, in his judgment, there were from 3,000 to 4,000 bundles. This estimate of the number of bundles was repeated by Mr. Corn two or three different times, and also repeated on cross-examination; afterwards, however, on re-direct examination, witness Corn testified he meant 300 or 400 bundles. Witness Corn also testified that he stood upon and walked upon the bundles of sacks. It is evident to the minds of the Commission that witness Corn must have been mistaken in his opinion that there were even 300 or 400 bundles of sacks of the size of a sack of bran in the car. It would seem, with this number of bundles of that size in the car, that witness could hardly have stood up and walked upon the same while in the car. However, the witness did not testify that he knew or had even counted the number of bundles or the number of sacks.

It appears to the Commission that the testimony herein is extremely conflicting and is not calculated to help the Commission much in its arrival at a determination of the contents of this car. Witness Walsh's testimony and witness Corn's testimony was the principal part of respondents' evidence, and, in no place, do they contend that they know the contents of the car, and admit that the same is a guess or at least only an estimate.

There were some affidavits introduced by respondents, tending to show the number of sacks that were sold to Peterman, the consignor, prior to the date of the shipment of this car, but the affidavits did not show that the sacks sold to Mr. Peterman were placed in this particular car. They are uncertain and unsatisfactory.

The Commission is, therefore, confronted with the fact that the only direct testimony of any of the witnesses who testified that they knew the exact contents of this car was that of plaintiff Radinsky and his stenographer, Miss Sach. They testified that they weighed the rags and the rags weighed 21,955 lbs. It was admitted by both complainant and respondents herein that the correct weight of the car was 24,400 lbs. While, as stated before, the testimony on both sides was very contradictory and conflicting, yet the Commission is constrained to find, and does so find, that the correct weight of the rags contained in the car was 21,955 lbs. The Commission is compelled to accept the conclusions of both complainant and respondents that the total weight of the car was 24,400 lbs. From these facts the Commission must find, and does so find, that the weight of the sacks con-

tained therein was the difference between the weight of the rags as aforesaid, and the total weight of the car, and that the actual weight of the same was 2,445 lbs.

(2) It is also the opinion of the Commission, and the Commission so finds, that prior to the date of the shipment in question the weight on rags, carloads, was 20 cents per cwt.; further, that respondents have filed their tariffs with this Commission, and that on the second day of January, 1915, the same will go into effect carrying a rate of 20 cents per cwt. carload on rags. The Commission is, therefore, of the opinion, and so finds, that the assessed rate of 47 cents per cwt. on the rags in question was an unjust and unreasonable rate, and that the just and reasonable rate to be assessed would be 20 cents per cwt. carload, minimum weight 30,000 lbs. The Commission is also of the opinion that complainant should pay on the sacks in question the present rate of 70 cents per cwt., L. C. L.

(3) It is therefore the opinion of the Commission that the reasonable rate on the rags was 20 cents per hundred lbs., carload, and on the bags 70 cents per hundred lbs., and the complainant herein is entitled to reparation of the difference between $228.00, the amount charged on the shipment in question, and $77.11, the amount that should have been charged, which is $150.89.

It is, Therefore, Ordered by the Commission, That the respondents, The Florence & Cripple Creek Railroad Company and The Colorado & Southern Railway Company, be, and they are hereby ordered and directed to, within twenty days from this date, pay to the complainant, Abraham D. Radinsky, by way of reparation, the sum of $150.89, being the amount of overcharge which they collected from the complainant on the aforesaid shipment from Cripple Creek to Denver in C. & S. Car No. 14088, covered by freight bill No. 3447.

(SEAL)

A. P. ANDERSON,
S. S. KENDALL,
GEO. T. BRADLEY,
Commissioners.

Dated this 23rd day of December, 1914, at Denver, Colo.

GEORGE W. VALLERY, as Receiver of THE COLORADO MIDLAND RAILWAY COMPANY,

v.

THE MIDLAND TERMINAL RAILWAY COMPANY, THE COLORADO SPRINGS & CRIPPLE CREEK DISTRICT RAILWAY COMPANY, THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY.

(Case No. 5.)

(January 4, 1915.)

COMPLAINT against discontinuance of certain passenger trains between Divide and Cripple Creek; upon motion of the plaintiff complaint dismissed.

By the Commission:

Now on this 4th day of January, 1915, on reading and filing the motion of George W. Vallery, Receiver of The Colorado Midland Railway Company, that the above entitled cause be dismissed.

It Is Hereby Ordered by the Commission, That the above entitled cause be, and the same is, hereby dismissed.

A. P. ANDERSON,
S. S. KENDALL,
GEO. T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 4th day of January, 1915.

In Re: PASSENGER FARES BETWEEN PUEBLO, CANON CITY AND TRINIDAD.

(Case No. 8.)

(January 28, 1915.)

INVESTIGATION on the Commission's own motion as to the reasonableness of passenger fares between Pueblo and Canon City and between Pueblo and Trinidad, also points intermediate therewith.

By the Commission:

The Commission having on January 29, 1915, passed a resolution dismissing the above entitled proceeding.

It Is Hereby Ordered, That the above entitled proceeding be, and the same is, hereby dismissed.

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 28th day of January, 1915.

In Re: PASSENGER FARES BETWEEN DIVIDE AND CRIPPLE CREEK.

(Case No. 9.)

(January 28, 1915.)

INVESTIGATION upon the Commission's own motion as to the reasonableness of passenger fares between Divide and Cripple Creek and all points intermediate therewith; upon motion of the Commission complaint dismissed.

By the Commission:

The Commission having on January 28, 1915, passed a resolution dismissing the above entitled proceeding,

It Is Hereby Ordered, That the above entitled proceeding be, and the same is, hereby dismissed.

S. S. KENDALL.
GEO. T. BRADLEY,
M. H. AYLESWORTH.
Commissioners.

Dated at Denver, Colorado, this 28th day of January, 1915.

In Re: DEMURRAGE CHARGES AND RULES.

(Case No. 12.)

(1) *Demurrage—Railroads—Rates—Reasonableness.*

In an investigation as to the reasonableness of demurrage charges, rate of $1.00 per car per day, or fraction of a day, after expiration of free time, found reasonable; except on refrigerator or insulated cars, on which rate of $1.00 per car per day for the first three days and $3.00 per car per day for each succeeding day after the expiration of free time, found reasonable.

(2) *Demurrage—Railroads—Rules—Reasonableness.*

In an investigation as to the reasonableness of demurrage rules and practices, the National Car Demurrage rules, with certain exceptions, were found reasonable and prescribed for intrastate shipments, with leave given to make applications for changes and revisions, as the rules were not considered inflexible.

(3) *Demurrage—Railroads—Narrow-gauge.*

Narrow-gauge carriers exempt from order of Commission prescribing demurrage rates and rules.

(March 29, 1915.)

INVESTIGATION upon the Commission's own motion of the rates, rules and practices of the carriers with respect to demurrage; rates and rules prescribed with notice to carriers and shippers to make application to the Commission for changes and amendments, as rules were not considered inflexible.

By the Commission:

Pursuant to an investigation and hearing held, on motion of the Commission, to inquire into the practices, rules, and charges on car demurrage of the Colorado carriers, a hearing was held at the office of the Commission in Denver, Colorado, on February 23, 1915, and at which all of the larger carriers in the state were represented by their attorneys, traffic and operating officials; also Mr. Arthur Hale, General Agent of the American Railway Association, and Mr. W. E. Backensto of the Colorado Demurrage Bureau. Notice of the pending hearing was sent to each of the commercial organizations within the state, but no representatives appeared from any of such bodies.

Upon March 15, 1915, the Commission tentatively adopted and issued a set of rules and charges and distributed same to all of the carriers, to which the carriers were to set forth all objec-

tions prior to April 1, 1915, at which date the rules were to become effective, providing sufficient objections had not been received. Upon the request of the carriers the Commission named March 23, 1915, as a day upon which to hear any and all objections to said tentative rules. Upon this date the carriers presented a request to amend Rule 2, Section B, Par. 4, by eliminating the words "or hay" immediately following the word "grain." This elimination has been made. Objections were made by the prairie lines to Section C of Rule 2, which provides for additional free time on traffic to or from interior towns. It was stated by such lines that this was a rule which should be applicable to mountain roads only. After a careful consideration given to this matter the Commission is of the opinion that for the sake of uniformity this section should be applied to both mountain and prairie districts and will so hold at this time. Objection was made by the Santa Fe to Rule 2, Section A, Exception No. 2, providing for additional free time on cars loaded with coke at coke ovens not equipped with machine loaders. The objection was considered negligible and no change will be made in same. (1) Objection was made by all carriers to Rule 7, Section B, which provides for demurrage charge on refrigerator equipment, the carriers asking that the same charges be applied as in effect on interstate business, as set forth in the National Car Demurrage Code, which grade from $1 to $5. The Commission feels that the same results will be accomplished by the application of the lower $3 maximum and no change, therefore, will be made in this rule. Attention of the Commission was called to a typographical error in Rule 6, reading "on order of the consignee." The word "consignee" has been changed to read "consignor."

(2) It has been the aim of the Commission, as closely as possible, to have these Rules follow the National Car Demurrage Rules and to contain only such exceptions thereto as considered necessary to Colorado intrastate traffic. (3) They will be applicable to all standard gauge lines, no recommendation being made at this time as to narrow gauge lines, although, if such lines so desire, the Rules may be published and applied as a maximum. The Commission does not consider these Rules inflexible, and applications for changes or amendments will be entertained from shippers or carriers, in order they may be revised to either conform to the changes which may occur in the National Car Demurrage Rules, or to meet the exigencies of necessary intrastate exceptions. An order will be entered requiring all standard gauge lines to publish the attached Car Demurrage Rules on Colorado intrastate traffic effective April 1, 1915.

ORDER.

It Is Ordered, That the above-named defendants, in so far as they operate standard gauge lines within the State of Colorado, be, and they are hereby, notified and required to cease and desist, on or before April 1, 1915, and thereafter to abstain, from charging, demanding, collecting or enforcing their present charges and rules upon car demurrage.

It Is Further Ordered, That the said defendants, in so far as they operate standard gauge lines within the State of Colorado, be, and they are hereby, notified and required to establish, effective April 1, 1915, and thereafter to maintain and apply, demurrage rules and charges named in the report of the Commission which are attached hereto and made a part hereof.

It Is Further Ordered, That the said defendants, in so far as they operate narrow gauge lines within the State of Colorado, be exempt from the provisions of this order, it being optional with such carriers to publish said demurrage rules and charges as a maximum.

SHERIDAN S. KENDALL,
GEORGE T. BRADLEY,
(SEAL) M. H. AYLESWORTH.
Commissioners.

Dated at Denver, Colorado, this 29th day of March, 1915.

COLORADO CAR DEMURRAGE RULES.

Rule No. 1.—Cars Subject to Rules

Cars held for or by consignors or consignees for loading, unloading, forwarding directions, or for any other purpose, are subject to these Demurrage Rules, except as follows:

Section A.—Cars loaded with live stock.

Section B.—Empty cars placed for loading coal at mines or mine sidings, or coke at coke ovens.

Section C.—Empty private cars stored on carrier's or private tracks, provided such cars have not been placed or tendered for loading on the orders of a shipper.

NOTE.—Private cars while in railroad service, whether on carrier's or private tracks, are subject to these Demurrage Rules to the same extent as cars of railroad ownership. Empty private cars are in railroad service from the time they are placed by the carrier for loading or tendered for loading on the orders of a shipper. Private cars under lading are in railroad service until the lading is removed and cars are regularly released. Cars which belong to an industry performing its own switching service are in railroad service from the time they are placed by the industry upon

designated interchange tracks and thereby tendered to the carrier for movement. If such cars are subsequently returned empty they are out of service when withdrawn by the industry from the interchange; if returned under load, railroad service is not at an end until the lading is duly removed.

Rule No. 2.—Free Time Allowed

Section A.—Forty-eight hours' (two days) free time will be allowed for loading or unloading on all commodities. (See Exceptions.)

NOTE.—If a consignee wishes his car held at any break-up yard or a hold-yard before notification and placement, such car will be subject to demurrage. That is to say, the time held in the break-up yard will be included within the forty-eight hours of free time. If he wishes to exempt his cars from the imposition of demurrage he must either by general orders given to the carrier or by specific orders as to incoming freight notify the carrier of the track upon which he wishes his freight placed, in which event he will have the full forty-eight hours' free time from the time when the placement is made upon the track designated.

Exception No. 1.—On carload shipments of Coal, Coke, Ore, Concentrates and Lime Rock, destined to smelters or ore reduction works, five days' free time will be allowed for unloading; and on ore, sampled in transit, five days' free time will be allowed for sampling.

Exception No. 2.—Coke cars of forty tons capacity loaded with Coke at coke ovens not equipped with machine loaders, seventy-two hours' (three days) free time will be allowed for loading.

Section B.—Twenty-four hours' (one day) free time will be allowed:

1. When cars are held for switching orders.

NOTE.—Cars held for switching orders are cars held by a carrier to be delivered to a consignee within switching limits and which when switched become subject to an additional charge for such switching movement.

2. When cars are held for reconsignment or reshipment in same car received.

NOTE.—A reconsignment is a privilege permitted by tariff under which the original consignee has the right of diversion. In event of the presence of such a privilege in the tariff twenty-four hours' free time is allowed for the exercise of that privilege by the consignee. A reshipment under this rule is the making of a new contract of shipment by which under a new rate the consignee forwards the same car to another destination.

3. When cars destined for delivery to or for forwarding by a connecting line are held for surrender of bill of lading or for payment of lawful freight charges.

4. When cars are held in transit and placed for inspection or grading. When cars loaded with grain are so held subject to recognized official inspection and such inspection is made after 12 o'clock noon, twenty-four hours (one day) extra will be allowed for disposition.

5. When cars are stopped in transit to complete loading, to partly unload, or to partly unload and partly reload (when such privilege of stopping in transit is allowed in the tariffs of the carrier).

6. On cars containing freight in bond for Customs entry and Government inspection.

Section C.—At stations where freight is teamed to or from interior points, the following schedule of free time will be allowed on carloads:

Five to ten miles	Five (5) days
Ten to twenty miles	Six (6) days
Twenty to forty miles	Seven (7) days
Forty miles or more	Ten (10) days

Rule No. 3.—Computing Time

NOTE.—In computing time, Sundays and legal holidays (National and State) will be excluded, except as otherwise provided in Section A. Rule 9. When a legal holiday falls on a Sunday, the following Monday will be excluded.

Section A.—On cars held for loading, time will be computed from the first 7:00 a. m., after placement on public-delivery tracks. See Rule 6 (Cars for loading).

Section B.—On cars held for orders, time will be computed from the first 7:00 a. m., after the day on which notice of arrival is sent or given to the consignee.

When orders for cars held for disposition or reconsignment are mailed, such orders will release cars at 7:00 a. m., of the date orders are received at the station where the freight is held, provided the orders are mailed prior to the date received, but orders mailed and received on the same date release cars the following 7:00 a. m.

Section C.—On cars held for unloading, time will be computed from the first 7:00 a. m., after placement on public-delivery tracks, and after the day on which notice of arrival is sent or given to consignee.

Section D.—On cars to be delivered on any other than public-delivery tracks, time will be computed from the first 7:00 a. m., after actual or constructive placement on such tracks. See Rule 4 (Notification) and Rules 5 and 6 (Constructive Placement).

NOTE.—"Actual Placement" is made when car is placed in an accessible position for loading or unloading or at a point previously designated by the consignor or consignee.

Section E.—On cars to be delivered on interchange tracks of industrial plants performing their own switching service, time will be computed from the first 7:00 a. m., following actual or constructive placement on such interchange tracks until return

thereto. See Rule 4 (Notification) and Rules 5 and 6 (Constructive Placement). Cars returned loaded will not be recorded released until necessary billing instructions are given.

Rule No. 4.—Notification

Section A.—Notice shall be sent or given consignee by carrier's agent in writing, or as otherwise agreed to by carrier and consignee, within twenty-four hours after arrival of cars and billing at destination, such notice to contain point of shipment, car initials and numbers, and the contents, and, if transferred in transit, the initials and number of the original car. In case car is not placed on public-delivery track within twenty-four hours after notice of arrival has been sent or given, a notice of placement shall be sent or given to consignee.

Section B.—When cars are ordered stopped in transit notice shall be sent or given the party ordering the cars stopped upon arrival of cars at point of stoppage.

Section C.—Delivery of cars upon private or industrial interchange tracks, or written notice sent or given to consignees of readiness to so deliver, will constitute notification thereof to consignee.

Section D.—In all cases where notice is required the removal of any part of the contents of a car by the consignee shall be considered notice thereof to the consignee.

Rule No. 5.—Placing Cars for Unloading

Section A.—When delivery of cars consigned or ordered to any other than public-delivery tracks or to industrial interchange tracks cannot be made on account of the act or neglect of the consignee, or the inability of the consignee to receive, delivery will be considered to have been made when the cars were tendered. The carrier's agent must send or give the consignee written notice of all cars he has been unable to deliver because of the condition of the private or interchange tracks, or because of other conditions attributable to the consignee. This will be considered constructive placement. See Rule 4 (Notification).

Section B.—When delivery cannot be made on specially designated public-delivery tracks on account of such tracks being fully occupied or from other cause beyond the control of the carrier, the carrier shall send or give the consignee notice in writing of its intention to make delivery at the nearest point available to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery shall be made.

Rule No. 6.—Cars for Loading

Section A.—Cars for loading will be considered placed when such cars are actually placed or held on order of the consignor. In the latter case the agent must send or give the consignor written notice of all cars which he has been unable to place because of condition of the private track or because of other conditions attributable to the consignor. This will be considered constructive placement. See Rule 3, Section A (Computing Time).

Section B.—When empty cars, placed for loading on orders, are not used, demurrage will be charged from the first 7:00 a. m., after placing or tender until released, with no time allowance.

Rule No. 7.—Demurrage Charge

Section A.—After the expiration of free time allowed, a charge of $1 per car per day, or fraction of a day, will be made until car is released. This charge is included in and is not in addition to the charges named in Section B.

Section B.—1. Refrigerator or other fully insulated cars (which have been ordered by consignor or shipper) will be subject to the following charges after the expiration of free time allowed:

NOTE 1.—A fully insulated car is a box car having walls, floor and roof insulated, not equipped with ice bunkers or ice baskets.

NOTE 2.—This section does not apply to ordinary box cars with temporary lining.

2. When held for loading or unloading—for the first seventy-two hours (three days), $1 per car per day or fraction of a day; for each succeeding day or fraction thereof $3.

3. When held for any other purposes—for the first seventy-two hours (three days) $1 per car per day or fraction of a day; for each succeeding day or fraction thereof $3.

4. Credits earned under Rule 9 (Average Agreement) cannot to be used to offset any charges provided above which are in excess of $1 per day.

5. This section shall apply to cars into which freight is loaded, or transferred in transit, for the purpose of providing necessary protection from climatic conditions.

Rule No. 8.—Claims

No demurrage charges shall be collected under these rules for detention of cars through causes named below. Demurrage charges assessed or collected under such conditions shall be promptly cancelled or refunded by the carrier.

Causes

Section A.—Weather interference.

1. When the condition of the weather during the prescribed free time is such as to make it impossible to employ men or teams in loading or unloading, or impossible to place freight in cars, or to move it from cars, without serious injury to the freight, the free time shall be extended until a total of forty-eight hours free from such weather interference shall have been allowed.

2. When shipments are frozen while in transit so as to prevent unloading during the prescribed free time. This exemption shall not include shipments which are tendered to consignee in condition to unload. Under this rule consignees will be required to make diligent effort to unload such shipments.

3. When because of high water or snow drifts, it is impossible to get to cars for loading or unloading during the prescribed free time.

This rule shall not absolve a consignor or consignee from liability for demurrage if others similarly situated and under the same conditions are able to load or unload cars.

Section B.—Bunching.

1. Cars for loading.—When by reason of delay or irregularity of the carrier in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily orders, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered.

2. Cars for unloading or reconsigning.—When, as the result of the act or neglect of any carrier, cars destined for one consignee, at one point, are bunched at originating point, in transit, or at destination, and delivered by the carrier line in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment. Claim to be presented to carrier's agent within fifteen (15) days.

Section C.—Demand of overcharge.—When the carrier's agent demands the payment of transportation charges in excess of tariff authority.

Section D.—Delayed or improper notice by carrier.—When notice has been sent or given in substantial compliance with the requirements as specified in these rules, the consignee shall not thereafter have the right to call in question the sufficiency of such notice unless within forty-eight hours from 7:00 a. m., following the day on which notice is sent or given, he shall serve upon the delivering carrier a full written statement of his objections to the sufficiency of such notice.

1. When claim is made that a mailed notice has been delayed the postmark thereon shall be accepted as indicating the date of the notice.

2. When a notice is mailed by carrier on Sunday, a legal holiday, or after 3:00 p. m. on other days (as evidenced by the postmark thereon) the consignee shall be allowed five hours' additional free time, provided he shall mail or send to the carrier's agent, within the first twenty-four hours of free time, written advice that the notice had not been received until after the free time had begun to run: in case of failure on the part of consignee so to notify carrier's agent, no additional free time shall be allowed.

Section E.—Railroad errors which prevent proper tender or delivery.

Section F.—Delay by United States Customs.—Such additional free time shall be allowed as has been lost through such delay.

Rule No. 9.—Average Agreement

When a shipper or receiver enters into the following agreement, the charge for detention to cars, provided for by Section A of Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

Section A.—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B, Paragraph 5). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five (5) days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, including Sundays and holidays.

Section B.—At the end of the calendar month the total number of days credited will be deducted from the total number of days debited, and $1 per day charged for the remainder. If the credits equal or exceed the debits, no charge will be made for the detention of the cars, and no payment will be made to shippers or receivers on account of such excess of credits, nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

Section C.—A shipper or receiver who elects to take advantage of this average agreement shall not be entitled to cancellation

or refund of demurrage charges under Section A, Paragraphs 1 and 3, or Section B of Rule 8.

Section D.—A shipper or receiver who elects to take advantage of this average agreement may be required to give sufficient security to the carrier for the payment of balances against him at the end of each month.

AGREEMENT.

.....Rail.....Company:

Being fully acquainted with the terms, conditions and effect of the average basis for settling for detention to cars as set forth in....., being the car demurrage rules governing at all stations and siding on the lines of said..... rail..... company, except as shown in said tariff, and being desirous of availing (myself or ourselves) of this alternate method of settlement (I or we) do expressly agree to and with the..... Rail..... Company that with respect to all cars which may, during the continuance of this agreement, be handled for (my or our) account at..... (Station) (I or we) will fully observe and comply with all the terms and conditions of said rules as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs.

This agreement to be effective on and after the..... day of.....19..., and to continue until terminated by written notice from either party to the other, which notice shall become effective on the first day of the month succeeding that in which it is given.

.....

Approved and accepted.....19..., by and on behalf of the above-named rail..... company by.....

THE JOHNSTOWN COMMERCIAL CLUB

v.

THE GREAT WESTERN RAILWAY COMPANY.

(Case No. 16.)

(April 1, 1915.)

COMPLAINT that the passenger train service furnished by defendant between Johnstown and Milliken was inadequate; stipulation entered agreeing to establish adequate service and order issued in accordance therewith.

By the Commission:

On December 3, 1914, the above-named petitioner filed an informal complaint with the Commission, wherein it was alleged that the passenger service afforded the patrons of the Great Western Railway Company, the defendant herein, was insufficient and inadequate, particularly on that portion of its line between Johnstown, Colorado, and Milliken, Colorado.

The complaint was made the subject of correspondence with the officials of the railroad company, which was later followed by conferences in an endeavor to bring about a condition which would be satisfactory to all parties concerned.

Pursuant to an invitation extended by the Commission, a conference was arranged between representatives of the Johnstown Commercial Club and the railroad officials, which conference was held in the office of the Commission on March 12, 1915.

At this conference the fullest opportunity was afforded all parties to express their opinions. It developed that the principal cause for complaint was the inability of the citizens of Johnstown to make a trip to Denver and return home the same day, and a request was made of the railroad officials to so arrange their schedules that connections could be made at Milliken with the Union Pacific morning train to Denver, and also to make connections at the same place with the Union Pacific evening train from Denver.

It developed, however, that it would be impossible for the defendant to so arrange its schedules to make these connections with the Union Pacific Railroad. Mr. Griffin, Vice-President and General Manager of the Great Western Railway Company, sug-

gested, however, that if a slight change was made in the schedules of the Denver, Laramie & Northwestern Railroad, he thought possibly he could arrange the schedules of the Great Western Railway Company to meet the requirements of the situation and in this manner satisfy the complaint. This was followed by a conference with the Receiver of the Denver, Laramie & Northwestern Railroad Company, who agreed to make the necessary changes in the schedules of trains on that road in order to make connections with the Great Western Railway Company's trains at Milliken. Whereupon the officials of the Great Western Railway Company agreed to so change their schedules that connections could be made at Milliken with the morning train to Denver, and the evening train from Denver, thus affording service which would be satisfactory to the citizens of Johnstown.

The attorney for the defendant entered into a written stipulation with the Commission, under date of March 31, 1915, wherein it was agreed that an order might be made in this case, said order to be predicated on the written statement made to the Commission under date of March 30, 1915, by Mr. E. R. Griffin, Vice-President and General Manager of the Great Western Railway Company, wherein the specific schedules in question are fully set forth.

The Commission will, therefore, treat this matter as a formal complaint and an order will be entered accordingly.

ORDER.

It Is Hereby Ordered, That the Great Western Railway Company institute, maintain and operate a passenger train service between Johnstown, Colorado, and Milliken, Colorado, each day except Sunday, on the following schedule:

Leave Johnstown	at 8:25 a.m.,	Arrive at Milliken	at 8:35 a.m.
Leave Milliken	at 9:00 a.m.,	Arrive at Johnstown	at 9:10 a.m.
Leave Johnstown	at 5:50 p.m.,	Arrive at Milliken	at 6:00 p.m.
Leave Milliken	at 6:45 p.m.,	Arrive at Johnstown	at 6:55 p.m.

It being the purpose of this schedule to make connections at Milliken with the trains of the Denver, Larimer & Northwestern Railroad Company to and from Denver.

This Order shall be in full force and effect on and after date and continue in force until September 1, 1915, unless sooner revoked by the Commission.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH.
Commissioners.

Dated at Denver, Colorado, this 1st day of April, 1915.

In Re: ADVANCE IN FREIGHT RATES OF THE DENVER, BOULDER & WESTERN RAILROAD COMPANY.

(Investigation and Suspension Docket No. 1.)

(1) *Rates—Railroads—Divisions.*

Upon small carrier, needing additional revenue to meet operating expenses, showing that in the division of proposed increase in joint freight rates its connecting lines would receive less than 6% of the increase, authority was granted to make the increase effective.

(2) *Rates—Railroads—Increase—Need for revenue.*

Upon railroad showing insufficiency of revenues to meet operating expenses authority was granted to increase freight rates.

(April 28, 1915.)

INVESTIGATION upon the Commission's own motion as to increase in joint freight rates between the Colorado & Southern Railway and Denver, Boulder & Western Railroad; upon showing of need of increased revenue on D., B. & W. R. R. to meet operating expenses and of low proportion of increase accruing to the Colorado & Southern Railway, authority granted to increase rates; suspension vacated.

By the Commission:

The tariff involved in this proceeding, the operation of which has been suspended until June 1, 1915, is Colo. P. U. C. No. 288 of the Colorado & Southern Railway Company, and its effect would be to increase rates on classes and commodities between points on the Colorado & Southern Railway and its connections on the one hand and points on the Denver, Boulder & Western Railroad on the other.

(1) It appears from the record that the Denver, Boulder & Western Railroad would receive almost the entire percentage of the increases proposed; that the Colorado & Southern Railway would receive less than 6% of the increases, and its connections would not participate in the increases. (2) It is clear that unless additional revenue is provided the Denver, Boulder & Western will be unable to meet operating expenses, a condition which actually existed during the fiscal year ending June 30, 1914. The Commission has had some doubt authorizing the increase in view of the fact that the Denver, Boulder & Western

was not the only carrier participating in the increase. However, after a full hearing, it appearing that the respondents have justified the increases in rates in question, an order of vacation will be issued.

An order in accordance herewith will be entered.

ORDER.

It Appearing, That on April 14, 1915, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the rates, charges, regulations and practices stated in the schedules contained in the tariff designated as follows: The Colorado & Southern Railway, Colo. P. U. C. No. 288, and subsequently ordered that the operation of said schedules contained in said tariff be suspended until June 1, 1915.

It Further Appearing, That a full investigation of the matters and things involved has been had, and the Commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof.

It Is Ordered, That the order of the Commission heretofore entered in this proceeding suspending the operation of said schedules be, and it is hereby, vacated and set aside as of May 1, 1915.

It Is Further Ordered, That copies hereof be forthwith served upon The Colorado & Southern Railway Company, issuing carrier, and upon the other carriers respondent herein, parties to said schedule, and that a copy hereof be filed with said schedule in the office of the Commission.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 28th day of April, 1915.

In Re: PASSENGER RATES AND RULES.

(Case No. 11.)

(1) *Commissions—Pleading—Omnibus complaint.*

The Commission may determine the reasonableness of all of the railroad passenger rates of the state under a single petition, where the testimony of each defendant is taken separately, since the Commission, being a creature of the legislature, with defined powers, and not a court, may proceed informally, within reasonable bounds.

(2) *Evidence—Burden of proof—Rates—Reasonableness.*

The question of the burden of proof does not enter into the investigation of existing rates, where the Commission is endeavoring to get the facts which will show the reasonableness of such rates.

(3) *Evidence—Presumption—Rates—Reasonableness.*

Upon an investigation as to the reasonableness of rates of steam railroads, it was held that every reasonable doubt in the minds of the Commission as to the reasonableness of such rates would be decided in favor of the railroad companies.

(4) *Rates—Railroads—Passenger fares—Reasonableness.*

A passenger rate of 5 cents a mile from Pueblo to Canon City and a rate of 4 cents a mile between Pueblo, Walsenburg, and Trinidad is unreasonable; and the territory, being comparatively level, should be served at a rate not to exceed 3 cents a mile.

(5) *Rates—Railroads—Maximum passenger fare.*

The Commission will not make one maximum passenger rate per mile for the state, owing to geographical conditions, part of the territory being mountainous and part level.

(6) *Rates—Railroads—Maximum passenger rates.*

The maximum rate per mile for passenger transportation on railroads traversing the mountainous area of Colorado was fixed by the Commission at a sum of not to exceed 4 cents a mile, with certain exceptions, and the maximum rate for passenger traffic traversing the prairies and valleys of the state was fixed at a rate not to exceed 3 cents per mile, with the understanding that the rules and regulations of the Commission concerning mileage books should be strictly observed by the companies operating in this territory.

(7) *Rates—Railroads—Mileage Books.*

Mileage books entitling passengers to travel in the prairie and valley territory of Colorado on the basis of 2½ cents a mile should be good for the holder or any member of his immediate family, since the family mileage book will stimulate travel and be of great benefit to the traveling public.

(8) *Rates—Railroads—Mileage Books—Mountainous territory.*

The owner of a mileage book sold by a railroad company operating for passenger travel in the mountainous territory of Colorado should

travel at a rate not to exceed 3 cents a mile, with certain exceptions, and a mileage book should entitle the holder or any member of his immediate family to transportation within the state.

(May 8, 1915.)

INVESTIGATION on motion of the Commission as to the reasonableness of the passenger fares and rules and regulations and practices affecting the same in effect between all stations in the State of Colorado; maximum rates fixed and rules with reference to the sale and use of mileage books adopted.

By the Commission:

The Commission having received numerous informal complaints from communities and civic bodies concerning the passenger fares on the various railroads in the State of Colorado, and the Commission, on its own motion, having filed Case No. 8 against The Atchison, Topeka & Santa Fe Railway Company and The Denver & Rio Grande Railroad Company, investigating the reasonableness of the passenger rates between Pueblo and Canon City and Pueblo and Trinidad, and Case No. 9 against the Midland Terminal Railway investigating the reasonableness of the passenger rates between Divide and Cripple Creek, and the defendants having objected to this method of procedure in that any changes in passenger rates made by the Commission in these two formal complaints would result in confusing the so-called "scheme of rates" now in force and effect upon the entire lines of the defendants, and the Commission having taken into consideration the great number of informal complaints brought to the attention of the Commission, and more particularly concerning the passenger rates in the entire State of Colorado, as well as the practices of the various steam railroads concerning the issuance of mileage books and the regulations controlling the same; it was decided by this Commission to investigate, on its own motion, the passenger rates between all stations and on all steam railroads in the State of Colorado. Out of this decision of the Commission arose the above case, Case No. 11, which was instigated on January 28, 1915, and on the same date Cases Nos. 8 and 9 were dismissed.

A copy of the notice and petition of Case No. 11 having been duly served upon each of the defendants, the Commission convened the above cause at its Hearing Room in the State Capitol in the City and County of Denver on March 1, 1915, at 10:00 o'clock a. m., and the defendants, having had notice of the time and place of said hearing, entered their appearance in said cause. The defendants were requested by the Commission to agree among themselves as to the order and method of procedure, and it was finally agreed by the defendants that the evidence of each defendant should be taken separately and apart from the evidence of any other defendant. The Commission introduced into evi-

dence petitions and letters condemning many passenger rates, and the Breckenridge Chamber of Commerce, the Publo Commerce Club and the Canon City Chamber of Commerce, through their representatives, presented testimony. In accordance with the agreement of the defendants, The Atchison, Topeka & Santa Fe Railway Company first presented its testimony.

At this point the defendants raised two objections to the method of procedure in this investigation. 1st. That this petition was in reality an "omnibus complaint," affecting all of the steam roads in the State of Colorado, and all of the passenger rates in the State of Colorado, and was too broad and vague. 2nd. That the Commission was placing the burden of proof upon the defendants to show that the passenger rates now in effect in the State of Colorado were reasonable.

The Commission tentatively overruled these two objections, and, after the tentative ruling of the Commission, and under protest, the defendants introduced such evidence as they desired to the Commission, each defendant presenting its evidence separately and apart from the evidence of every other defendant.

On Monday, March 8, the Commission called Mr. C. P. Link, a member of the Colorado State Tax Commission, who presented evidence as to the physical valuation of each defendant for the year 1912, which testimony Mr. Link presented from a written report made, under oath, by each defendant, to the Colorado State Tax Commission in the year 1912. Mr. Link testified that since the year 1912 the defendants had not presented to the Colorado State Tax Commission statements of their physical valuations, but the said Link testified as to the assessed valuation of each defendant by the Colorado Tax Commission for the years 1913 and 1914.

At the request of the defendants the Commission set March 24 as a day for the argument of the two objections raised.

After giving each defendant due and proper notice this case was re-opened on May 6, 1915, at 10 o'clock a. m., for final ruling by the Commission upon the two objections raised by the defendants and for the presentation of such testimony as might be desired by the Commission or the defendants, and at which time the Commission ruled, in substance, that it had proceeded in a proper manner in this investigation, in that all passenger rates in the State of Colorado were involved and naturally the defendants named in the petition became involved; that the Commission had taken testimony of each defendant separately and apart from the testimony of any other defendant, and would consider the testimony of each defendant separately and apart from the testimony of any other defendant, except where the testimony of one defendant, developed in the record, would be applicable to any other defendant, and further that it would base its opinion

in this case upon the evidence introduced and from the record, but would, of course, take into consideration the tariffs, schedules and annual reports of the various defendants now on file with the Commission, it having been agreed by the defendants that the schedules, tariffs and annual reports should be a part of the record, and that the Commission should take notice of the things therein contained. (1) The Commission further decided that it was a creature of the Legislature, with defined powers, and was not a court, and that the practice before the Commission was, by the laws of the State of Colorado, intended to be informal within reasonable bounds, and it was the duty of the defendants and the Commission to introduce all testimony which would aid the Commission in deciding the reasonableness or unreasonableness of the passenger rates on the lines of the defendants in the State of Colorado. (2) It was further held that the defendants should have their day in court, and be given an opportunity to meet the issues brought out in the investigation, and that the question of burden of proof did not enter into the investigation in that the Commission was endeavoring to get the facts which would show to the Commission the reasonableness or unreasonableness of any passenger rate or rates. (3) It was further held that in the event the evidence in the case convinced the Commission that a part or all of the rates were reasonable, then those reasonable rates would not be molested by an order of this Commission, but if, on the other hand, the Commission should find from the evidence in this cause that a part or all of the rates were unreasonable, then the Commission would, in a proper order in the cause, set forth the reasonable rate or rates, and the decision would be based upon the records of the Commission and every reasonable doubt in the minds of the Commission as to the reasonableness of rates would be decided in favor of the defendants.

The Commission then made plain to the defendants the issues in their cause, which had been ascertained by it from the evidence already introduced, and the several defendants were given an opportunity to introduce further testimony to meet these issues if they so desired.

Since the 8th day of March, and even prior thereto, we have made a very careful study of the passenger rates now in force and effect on each of the steam railroads in the State of Colorado. We have been able to ascertain that there has been no basis for passenger rates in this state, but that most of the rates are arbitrary and of long standing. In some parts of the state passenger rates vary from six to eleven cents per mile without any reasonable basis for the same. (4) The Commission is of the opinion that the rate of five cents a mile from Pueblo to Canon City is unreasonable, and that the rate of four cents a mile between Pueblo, Walsenburg and Trinidad is unreasonable. This territory is not moun-

tainous, but, on the other hand, is comparatively level, and the rate should not exceed three cents a mile.

We have carefully examined the record in this cause and the tariffs, schedules and reports of the defendants. We have also investigated into the passenger rates of other states, taking into consideration the similarity and geographical conditions, as well as the density of population and difficulties of operation. We have made a careful study of the record in regard to the sale, regulations and practices affecting the sale of mileage books on the lines of the several defendants. We are of the opinion that there should be certain definite changes in regard to the sale, and practices and regulations affecting the same. We have become convinced that the local passenger fares on the lines of the defendants traversing the mountainous country, and known as the mountain lines in Colorado, are, to a great extent, out of proportion, and on certain lines prohibitive, and therefore unreasonable.

(5) This Commission cannot see its way to making one maximum passenger rate per mile for the State of Colorado, as has been done by legislative enactment in some of the older states. The State of Colorado is a new state, in need of development, and, while not having the density of population possessed by a great many of the states with maximum passenger rates enacted by the Legislature, its geographical conditions are such that in parts of the State of Colorado the difficulties of operation bring the cost of operation out of all proportion to that of the prairie lines, so it seems that a maximum rate per mile for passenger transportation cannot be made for the entire State of Colorado. It is also the opinion of this Commission that while the several defendants operating mainly through the mountainous area of this state have brought about every effort to bring tourist travel into and through the state, these defendants have, for some reason or other, refused or neglected to reconstruct the local passenger rates in the state, to the end that certain communities on these railroads have been discriminated against, and that the readjustment of these rates is highly desirable, not only for the benefit of the state at large, but we feel also that local traffic will be stimulated by a readjustment of these conditions.

(6) It is, therefore, the opinion of this Commission that there should be a maximum rate per mile for passenger transportation on the railroads traversing the mountainous area of the state, which will be more definitely defined in the order of this Commission, in the sum of not to exceed four cents a mile, with certain exceptions which we shall refer to presently.

The defendants operating railroads for passenger traffic and traversing the prairies and valleys of this state, which will be more particularly defined in the order of this Commission in this cause, should have a maximum rate per mile for passenger traffic

not to exceed three cents, with the specific understanding that the rules and regulations concerning mileage books, adopted by this Commission in its order in this cause, should be strictly observed by the defendants operating in the valley and prairie districts of this state, and more particularly defined in the order of this Commission.

(7) The defendants operating in the prairie and valley territory have, in the past, sold mileage books of one thousand miles each, for the sum of $25.00, and these mileage books have entitled the holder thereof, with certain exceptions, to travel one thousand miles for the sum stated, which is on the basis of 2½ cents a mile. It is the opinion of this Commission that these mileage books should entitle the holder or any member of his immediate family to travel on the same. In our opinion the sale of the family mileage book will stimulate travel within the state, and will be of great benefit to the traveling public.

We believe that the defendants now operating in the valley and prairie districts of the state, which we shall more particularly define in the order in this cause, should continue to offer for sale a mileage book, and furthermore should sell this book, with one thousand coupons therein attached, for the sum of $25.00, which should entitle the holder or any member of his immediate family to travel one thousand miles within the State of Colorado at a rate not to exceed 2½ cents a mile, and, in consideration of this regulation, it is our opinion that these defendants should charge a maximum rate for passenger travel of not to exceed three cents a mile.

(8) The several defendants operating railroads for passenger travel in the mountainous districts of this state now sell mileage books for the sum of $30.00, each book having therein attached one thousand coupons. The holder, however, is not in every instance entitled to travel one mile for every coupon pulled by the conductor, and therefore the holder does not at all times travel one thousand miles for the sum of three cents a mile. The Commission feels that this regulation is unfair and discriminatory, and therefore it is the opinion of this Commission that the holder of a mileage book, sold by a defendant operating its railroad for passenger travel in that territory, which will hereafter be defined, should travel at a rate not to exceed three cents a mile, except as hereinafter specifically excepted by the order of this Commission in this cause, and that a mileage book should entitle the holder or any member of his immediate family to transportation within the State of Colorado.

IT IS ORDERED:

The Atchison, Topeka & Santa Fe Railway Company.

The Atchison, Topeka & Santa Fe Railway Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Chicago, Burlington & Quincy Railroad Company.

The Chicago, Burlington & Quincy Railroad Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Chicago, Rock Island & Pacific Railway Company,
H. U. Mudge and Jacob M. Dickinson, Receivers.

The Chicago, Rock Island & Pacific Railway Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Denver, Laramie & Northwestern Railroad Company,
Continental Trust Company and Marshall B. Smith, Receivers.

The Denver, Laramie & Northwestern Railroad Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Missouri Pacific Railway Company.

The Missouri Pacific Railway Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

Union Pacific Railroad Company.

The Union Pacific Railroad Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Colorado & Southern Railway Company.

The Colorado & Southern Railway Company shall have a rate not to exceed three cents a mile on its entire system within

the State of Colorado, except that branch of the Colorado & Southern Railway known as the "South Park" branch, and operating between Denver and Leadville, and on that portion of its line shall have a rate not to exceed five cents a mile, and also excepting that part of its line known as the "Clear Creek" branch, and operating between Denver, Silver Plume and Central City, and on that portion of its line shall have a rate not to exceed four cents a mile; the above rates being adjudged reasonable in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book on the entire system of the Colorado & Southern Railway Company in Colorado shall be sold for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled with the following exceptions:

(a) On the "South Park" branch of the Colorado & Southern Railway the mileage book shall entitle the holder and any member of his immediate family to travel at the rate of four cents a mile;

(b) On the "Clear Creek" branch of the Colorado & Southern Railway the mileage book shall entitle the holder and any member of his immediate family to travel at a rate not to exceed three cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Colorado Midland Railway Company,
George W. Vallery, Receiver.

The Colorado Midland Railway Company shall have a rate not to exceed four cents a mile on its entire system, with the following exceptions: Between Arkansas Junction and Glenwood Springs, and intermediate points, the rate shall not exceed 4½ cents a mile; the above rates being adjudged reasonable in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book on the entire system of the Colorado Midland shall be sold for the sum of $30.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $30.00 or at a rate not to exceed three cents for every mile actually traveled.

2. These mileage books shall be on sale at every station where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Denver & Salt Lake Railroad Company.

The Denver & Salt Lake Railroad Company shall have a rate not to exceed 4½ cents a mile on its entire system within the State of Colorado, the above rate being adjudged reasonable in consideration of the said defendant offering for sale a mileage book with the following regulations:

1. The mileage book on the Denver & Salt Lake Railroad shall be sold for the sum of $30.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel at a rate not to exceed four cents for every mile actually traveled.

2. The mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Denver & Rio Grande Railroad Company, and
The Rio Grande Southern Railroad Company.

The Commission has considered the evidence introduced by The Denver & Rio Grande Railroad Company separately and apart from the evidence introduced by the Rio Grande Southern Railroad Company, but, for the purpose of convenience, and due to the circumstances surrounding these defendants, they are joined in this order.

The Denver & Rio Grande Railroad Company shall have a rate not to exceed three cents a mile on its lines operating between Denver and Canon City, and Denver, Walsenburg and Trinidad, and a rate not to exceed four cents a mile on the remainder of its system in the State of Colorado, with the following exceptions:

(a) Salida to Glenwood Springs and all intermediate points, a rate not to exceed 4½ cents a mile.

(b) Salida to Gunnison and all intermediate points, a rate not to exceed 4½ cents a mile.

(c) Antonito to Silverton and all intermediate points, a rate not to exceed 4½ cents a mile.

(d) On the Rio Grande Southern Railroad, a rate not to exceed 5 cents a mile; the above rates being adjudged reasonable in consideration of the said defendants continuing to sell a mileage book with the following regulations:

1. The mileage book on the entire system of the Denver & Rio Grande Railroad in the State of Colorado, including the Rio Grande Southern Railroad, shall be sold for the sum of $30.00 and have attached therein one thousand coupons, which shall entitle the holder and any member of his immediate family to travel at the following rates:

(a) Denver to Canon City and all intermediate points at a rate not to exceed 2½ cents a mile;

(b) Denver to Walsenburg and Trinidad and all intermediate points at a rate not to exceed 2½ cents a mile;

(c) On the remainder of its entire sytem in the State of Colorado at a rate not to exceed three cents a mile, with the following exception, viz.: on the Rio Grande Southern Railroad at a rate not to exceed four cents a mile.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendants have employed a ticket agent.

3. These defendants shall also sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on their lines in Colorado, for the sum of double the one-way fare less ten per cent.

4. This order shall become effective at a date not later than July 1, 1915.

The Florence & Cripple Creek Railroad Company.

The Florence & Cripple Creek Railroad, its successors and assigns, shall have a rate not to exceed 4½ cents a mile between Colorado Springs and Cripple Creek and intermediate points.

This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

This order shall become effective at a date not later than July 1, 1915.

The Midland Terminal Railway Company.

The Midland Terminal Railway shall have a rate not to exceed 4½ cents a mile between Divide and Cripple Creek and intermediate points.

This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

This order shall become effective at a date not later than July 1, 1915.

The Great Western Railway Company.

The Great Western Railway shall have a rate not to exceed 3 cents a mile on its entire system within the State of Colorado.

This defendant shall sell round-trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one-way fare less ten per cent.

This order shall become effective at a date not later than July 1, 1915.

The defendants not covered by this order operate small properties with short mileage, and, as to them, the Commission makes no order at this time.

All mileage books covered by this order shall be good for transportation within the State of Colorado for a period of one year from the date of sale.

It is the opinion of this Commission that the family mileage books should be interchangeable as between the various defendants, and, where feasible, we respectfully recommend this practice, but shall not so order.

(SEAL)

SHERIDAN S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated this 8th day of May, 1915, at Denver, Colorado.

(1 Colo. PUC)

*In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

(1) *Commissions—Pleading—Omnibus Complaint.*

The Commission, acting under authority vested in it by virtue of Section 23 of the Public Utilities Act, may on its own motion, enter into an investigation as to the reasonableness of specific rates, and any or all rates in any wise related thereto, when a readjustment of the specific rates will immediately affect the related rates, and where the testimony of each defendant is taken and considered separately, since the Commission, being a creature of the Legislature, with defined powers, and not a court, may proceed informally, within reasonable bounds.

(2) *Evidence—Burden of Proof—Rates.*

The question of burden of proof does not enter into the investigation of reasonableness of existing rates, where the Commission is endeavoring to get the facts which will show the reasonableness or unreasonableness of such rates.

(3) *Evidence—Presumption—Rates—Reasonableness.*

Upon an investigation as to the reasonableness of rates of steam railroads, it was held that every reasonable doubt in the minds of the Commission as to the reasonableness of such rates would be decided in favor of the railroad companies.

(4) *Rates—Railroads—Relation.*

Rates from various coal producing districts in the state bear a definite and long established relation to each other on interstate traffic and, to a certain extent, on intrastate traffic.

(5) *Rates—Railroads—Differentials.*

Differentials in effect between various coal producing districts in the state adhered to by the Commission in consideration of, and in decision determining, the reasonableness of coal rates.

(6) *Rates—Railroads—Competition—Divisions.*

Upon an originating line voluntarily agreeing to assume the burden of disability in distance, necessary to meet competition, in division of joint through rates on coal, and taking cognizance of highly competitive market conditions, the Commission ordered through rates from coal producing districts on the carrier's line on basis of rates from competing districts, without prescribing divisions.

(7) *Rates—Railroads—Equalization—Relation.*

There having been no established basis in effect in the making of coal rates to eastern Colorado points, in relation of one point of destination to another, the Commission endeavored to equalize such existing inequalities in prescribing reasonable rates.

---

*Writ of review pending in Supreme Court (8744) as to order from Palisade and South Canon Districts.

(8) *Rates—Railroads—Distance—Blanket.*

Blanket rates, implying of necessity a discrimination between points on the near and far edge of the group and consequently between points just across the line, disregard distance, and the Commission, in prescribing reasonable rates, eliminated system of blanketing rates on coal to eastern Colorado.

(9) *Rates—Railroads—Reasonableness—Distance.*

The rate per ton per mile should ordinarily decrease in inverse ratio to the ever increasing distance.

(10) *Rates—Railroads—Reasonableness—Distance.*

Where the rates on coal to eastern Colorado points were found to be unreasonable the transportation and operating conditions on the prairie lines were not so dissimilar as to preclude the consideration of the rates being revised by distributing the spread between the lowest and highest rates along the line according to mileage, resulting in the rate per ton per mile decreasing in inverse ratio to the ever increasing distance.

(11) *Rates—Railroads—Reasonableness—Maximum.*

The transportation of slack and mine run coal carrying special conditions and requirements, and competition, so dissimilar to that of lump coal, the Commission in determining the reasonableness of coal rates to eastern Colorado, did not prescribe any rates for coal, other than lump, except to fix the lump rates as maxima on all classes of soft coal.

(12) *Rates—Railroads—Reasonableness—Competing Line.*

In determining reasonableness of rates, short line rate is factor considered by the Commission.

(13) *Rates—Railroads—Reasonableness—Divisions.*

The Commission will not attempt to establish the division of rates between any two or more carriers, unless the carriers fail to agree among themselves.

(14) *Rates—Railroads—Reasonableness—Group.*

System in vogue of carriers grouping all mines in a coal producing district at one rate found just and reasonable and not disturbed.

(15) *Rates—Railroads—Reasonableness—Distance.*

Where rates on coal to eastern Colorado points varied from one to five cents per ton per mile, the Commission, in prescribing reasonable rates, fixed no rates, except for very long hauls, at less than one cent per ton per mile, the conditions surrounding the transportation of coal being such that the rate should be less per ton per mile than on other commodities.

(May 10, 1915.)

INVESTIGATION on motion of the Commission as to the reasonableness of the local, joint or proportional rates on coal (all classes), between Northern Colorado points, Leyden, Walsenburg, Trinidad, Oak Hills, Canon City, South Canon, Bowie, Baldwin, Pikeview, Starkville and Roswell, and the Colorado-Kansas and Colorado-Nebraska state lines, and all points intermediate therewith, all within the State of Colorado, as charged by the following named common carriers:

(1 Colo. PUC)

The Atchison, Topeka & Santa Fe Railway Company.

Chicago, Burlington & Quincy Railroad Company.

The Chicago, Rock Island & Pacific Railway Company—H. U. Mudge and Jacob M. Dickinson, Receivers.

The Colorado & Southern Railway Company.

The Missouri Pacific Railway Company.

Union Pacific Railroad Company.

The Colorado Midland Railway Company—George W. Vallery, Receiver.

The Denver & Salt Lake Railroad Company.

The Denver & Intermountain Railroad Company.

The Denver & Rio Grande Railroad Company.

The Colorado & Southeastern Railroad Company.

The Colorado & Wyoming Railway Company.

By the Commission:

On January 11, 1915, the Commission, on its own motion, instituted an inquiry as to the reasonableness of the existing rates charged by the above-named common carriers for the transportation of coal, all classes, from the coal-producing sections of the state to all stations intermediate with Colorado-Kansas and Colorado-Nebraska state lines. The inspiration which actuated the Commission to make this investigation was the fact that for many years the general public had labored under the impression that the carriers were exacting an excessive charge for the transportation of this commodity, and from the further fact that many insistent demands had been made upon the Commission to lower coal rates in specific instances. Upon making an examination of the various tariffs and rates, as shown by the schedules filed by the common carriers, many apparent discrepancies were discovered, and the Commission felt that it would be a loss of time, without any general benefit, to attempt to justify any specific rate without making an investigation as to the whole situation, owing to the fact that the coal rates in the state are so closely related to each other, from the various producing points, that if one rate or set of rates were disturbed the change would immediately affect every other rate. Thus, from the very nature of the situation, it became necessary for the Commission to investigate the entire field at one and the same time, to the end that no injustice would result to any of the carriers and no discrimination would result to either the coal-producing centers or the various coal-consuming places.

This case came on for hearing on February 15, 1915, at which time all parties in interest were represented. The Commission deeming it advisable to extend the scope of the inquiry, announced that the petition would be amended so as to include

all shipping points in Routt County, Huerfano County, Las Animas County, Gunnison County, Fremont County, Delta County, El Paso County, and the stations of Palisade, Cameo, Newcastle, Sunshine and Spring Gulch, on the line of the Colorado Midland Railroad. At the same time the South Canon Coal Company, the Grand Junction Mining and Fuel Company, and the Huerfano Coal Company were allowed to intervene and be heard.

In addition to the complaint, as set forth in the petition, the Commission, at the very beginning of the hearing, announced in detail just what the range of inquiry would be, and indicated the specific matters upon which the Commission desired information. The carriers interposed two objections in this case as to the method of procedure, as follows, to-wit:

First. Into the form of petition, in that objection was made that said petition was in fact an "omnibus complaint" and was improper, for the reason that more than one carrier was named as defendant in the petition, and that the petition was too general, in that it set forth no specific rate under investigation by the Commission.

Second. That the burden of proof should be upon the Commission to show by preponderance of the evidence that the rates were unreasonable.

In referring to the objections raised by the defendants it might be noted here that the representative of one of the largest lines involved in this hearing indicated very clearly that the line which he represented had no objections to offer as to the method of procedure adopted by the Commission.

The objections as raised by the common carriers were tentatively overruled by the Commission and the taking of testimony proceeded. On March 24, 1915, the objections raised by the carriers were argued before the Commission and the questions involved were taken under advisement, and the Commission, being fully advised in the premises, did, on the 5th day of May, 1915, rule thereon as follows, to-wit:

That the Commission has proceeded in a proper manner in this investigation, in that all of the coal rates in the territory designated in the petition of the Commission were involved, and naturally the defendants named in the petition became involved. That the Commission has taken testimony of each defendant separate and apart from the testimony of any other defendant, and will consider the testimony of each defendant separately and apart from the testimony of any other defendant, except where the testimony of one defendant developed in this record will be applicable to any other defendant. The Commission further decides that it will base its opinion in this case upon the evidence introduced, and solely from the record, but will, of course, take into consideration the tariffs, schedules and annual reports of the

various defendants now on file with this Commission, it having been agreed by the defendants that said schedules, reports and tariffs should be a part of the record and the Commission should take notice of the things therein contained.

(1) The Commission is of the opinion, and so decides, that it is a creature of the legislature, with defined powers, and not a court. The practice before this Commission is, by the laws of Colorado, intended to be informal, within reasonable bounds, and it is the duty of the defendants and the Commission to introduce all testimony which will aid the Commission in deciding the reasonableness or unreasonableness of the coal rates on the lines of the defendants in the State of Colorado.

The Commission is firmly of the opinion that the defendants should have their day in court and be given an opportunity to meet the issues brought out in the investigation.

(2) We are of the opinion that the question of the burden of proof does not enter into this investigation: the Commission is endeavoring to ascertain whether or not the existing coal rates in the State of Colorado are reasonable. If the evidence in this case convinces the Commission that one or more rates are reasonable, then those reasonable rates will not be molested by this Commission; but if, on the other hand, the Commission finds from the evidence in this case that one or more rates are unreasonable, then the Commission will, in a proper order in this cause, set forth the reasonable rate or rates to be thereafter charged, demanded or collected by said common carriers.

(3) We shall base our decision upon the record, and every reasonable doubt in the minds of this Commission as to the reasonableness of the rates will be decided in favor of the defendants.

In taking testimony in this case the Commission followed a most liberal policy and allowed the widest range of latitude. Any evidence which had any bearing whatever on the case, or would assist the Commission in arriving at a decision, was admitted, which resulted in a very voluminous record. (4) The testimony in this case shows that the coal supply for the territory involved in this hearing is brought from approximately ten different coal-producing sections, as follows, viz.: northern Colorado points, Routt, El Paso, Fremont, Huerfano, Las Animas, Gunnison, Garfield, Mesa, and Delta counties, and, in relation to the rates charged by the carriers, most of these districts bear a defined and long-established relation to each other. (5) Certain of these districts have definite and fixed arbitrary rates over other districts; for instance, coal from Canon City and Oak Hills to all points in eastern Colorado, except points on the Atchison, Topeka & Santa Fe Railway, are given the Walsenburg rate. Coal from Trinidad to points in eastern Colorado take a rate of 25 cents per ton over Walsenburg, except to points on the Atchison, Topeka & Santa Fe

Railway. Coal from Pikeview to points in eastern Colorado on the Chicago, Burlington & Quincy and Union Pacific are given the Walsenburg rate. This is especially true of interstate shipments, and is followed more or less on intrastate shipments. In considering these relations we believed it to be of the greatest importance to adhere to the present differentials, and have therefore followed that plan.

One of the most difficult problems which confronts the Commission in this case is the establishment of just and equitable rates from the South Canon and Palisade districts on the Colorado Midland Railway. The operators of these districts, and the Colorado Midland Railway Company, have asked to be placed upon the same basis as are mines in the Walsenburg and Trinidad districts, as well as mines located in Routt County on the line of the Denver & Salt Lake Railroad. The distance from Walsenburg to Denver is 185 miles; the distance from the Oak Hills district to Denver is 209 miles; the distance from the Trinidad district to Denver is 213 miles; the distance from Palisade district to Denver is 358 miles, and the distance from the South Canon district to Denver is 291 miles. It appears that, unless the mines in these two districts are afforded the Walsenburg and Trinidad basis of rates, it will be absolutely impossible for them to compete with the mines in other districts. The distance from these mines is considerably greater than from either the Walsenburg or Trinidad districts; but, notwithstanding this fact, (6) the Colorado Midland Railway Company has indicated its willingness to meet these rates and bear the burden of the disability of the distance in reference to the division with other lines entering Denver, and the Commission feels that, under these circumstances, they should be afforded the relief prayed for, and the same rate be given the mines in the South Canon district to Denver as now applies from the Walsenburg district, and the mines in the Palisade district be given the same rate to Denver as now applies from the Trinidad district.

It appears from the testimony that the mines in what may be termed the Palisade and South Canon groups have been badly handicapped in finding a market, on account of being compelled to pay a much higher rate to the market centers of the state than other operators. The operators in these districts, as well as the Colorado Midland Railway Company, one of the defendants herein, appeared before the Commission in this hearing and asked that an order might be entered wherein they, the mines in the South Canon district, would be given the same rate to Colorado Springs and Denver and points east thereof as now prevail from the Walsenburg district, and that the mines in the Palisade district be given the same rate to the same points as now apply from the Trinidad district.

It appears that the local and through rates on coal from the Colorado mines to points in eastern Colorado on the prairie lines at the present time bear no established relation to each other in reference to the distance hauled; that is, with few exceptions, or, as Mr. Johnson, general freight and passenger agent of the Colorado & Southern Railway Company, testified, page 202 of the record: "There is no specific or defined basis for present coal rates. Numerous changes have been made from time to time, owing to competition between producing districts, commercial conditions surrounding its production, competitive conditions under which it moves, and the varying costs of the different fields; these and other factors have brought about the present coal rates, and have entirely wiped out any well-defined basis, if such originally existed." (7) This, in fact, is the identical condition which the record in this case discloses, and it will be the purpose of this Commission not only to establish, by order, what we believe to be just and reasonable rates from one coal-producing point to points of consumption, but also to make the rates uniform and harmonize with each other from the various coal-producing sections.

It seems that to a great extent the method of blanketing rates has been used within the state for both long and short hauls. This is due sometimes to observing the short-line rates. However, the method adopted by practically all of the carriers seems to be used with a total disregard to distance. A blanket rate will be applied to a certain stretch of line from a district some four or five hundred miles distant, while a blanket rate will also cover the same portion of the line from mines less than one hundred miles distant. This may be due to observance of market conditions at destination, but manifestly it is improper to so utterly disregard short hauls. As an example, the Union Pacific carries a blanket rate of $2 per ton to points on their Kansas-Pacific line from 57 miles distant from the mines to 130 miles distant, and a blanket rate of $2.25 per ton from points 139 miles to 217 miles distant.

Another condition somewhat prevalent seems to be that of making rapid increases between points a short distance apart, in some cases being as high as $3 per ton for seven miles. Although it might be stated that this extreme instance, as well as many others has voluntarily been remedied by the carriers since the opening of this case. However, this condition still prevails with respect to a great number of points, and undoubtedly works a discrimination against the localities immediately concerned. The carriers, as a defense for this, explain that it is caused by the use of the well-recognized system of blanket rate-making, but it is not denied that the application of these rates of necessity implies a discrimination between the near and far edge of the group, and consequently a discrimination between points just across the line. This situation, therefore, throws the primary importance on the

following question: Where does distance affect blanket rates? Group rates, requiring, as they do, a disregard of distance, result in varying degrees of inequality. And how can it be determined as to what is considered a short haul and what a long haul, and where the line of demarcation?

This case was brought primarily for the purpose of relieving the towns of these inequalities, which it cannot be denied exist. The Interstate Commerce Commission, as well as this Commission, has heretofore approved the use of the blanket system, particularly as applied to location of mines at points of production, but only where the conditions are such as to justify its use.

"Slight differences in distance are often and properly disregarded in the naming of rates, and the Commission has often approved blanket rates covering wide areas, but always with the reservation either that no one was objecting or that a substantial reason for that rate adjustment has been shown."—Transportation Bureau of Wichita v. St. L. & S. F. R. R. Co. (23 I. C. C., 679).

(8) In order to fix a just and proper rate to the various points of distribution it will be necessary, in order to harmonize and equalize the situation, to eliminate the system of blanket rates east of Colorado common points, which can be done without disturbing any interstate rates.

(9) The fundamental principle of rate-making is that the rate per ton per mile shall decrease as the distance increases. (10) If the spread of rates along the prairie lines is equalized—that is, distributing the spread between the lowest and highest rate along the line according to mileage—it will result in a rate per ton per mile being in an inverse ratio to the ever-increasing distance. The transportation and operating conditions on the prairie lines are not so dissimilar as to preclude the consideration of the rates being revised on this basis as a whole, nor to prevent the application of this principle to those lines.

(11) Inasmuch as the transportation of slack and mine-run coal seems to carry with it such special conditions and requirements in regard to rates, no consideration has been given to it, except that the rates herein fixed by the Commission for the transportation of lump coal shall in every instance be considered a maximum rate for all other classes of coal, except as otherwise specified in this order. Slack coal, as produced at the different districts, varies a great deal as to value, size, durability, etc., and many rates are in effect to take care of the special conditions surrounding its use, such as sugar-beet factories, etc., which rates, if undisturbed, will result in hardship to no one.

The several individual mines will not be referred to, it being deemed sufficient to refer to the general groupings as published in the carriers' tariffs. (12) Where the short-line mileage has fixed the rates to points on two different lines, the short-line rate has been shown for the longer line. This is the principle of rate-making long recognized and used by the carriers themselves.

The Colorado Midland have already, prior to the institution of this case, voluntarily reduced their rates from the mines in the Palisade and South Canon districts to Colorado Springs to the Walsenburg basis, but have been unable to get into Denver on account of the refusal of other lines to join with them in the establishment of through rates. It appears that the cause for this refusal was occasioned by the fact that all of the lines operating between Colorado Springs and Denver also operate lines from the southern coal fields into Denver, and they naturally preferred to get all the revenue on hauls from the southern fields to Denver rather than join with the Colorado Midland in applying the Walsenburg rate from South Canon to Denver and dividing the revenue with that road.

The Commission feels, however, that wherever possible the coal-mining districts of this state should be placed on an equality, and given the fullest opportunity to compete with each other. At the present time the Atchison, Topeka & Santa Fe Railway and the Colorado & Southern Railway are carrying joint rates in connection with the Colorado Midland on coal from the South Canon and Palisade districts to Denver, as follows:

South Canon to Denver—Lump, $2.25; slack, $1.65.
Palisade to Denver—Lump, $2.75; slack, $2.75.

The testimony shows that the coal from these districts comes in direct competition with coal from southern Colorado and the Routt County district, rates from the southern Colorado fields to Denver being as follows:

Walsenburg to Denver—Lump, $1.60; slack, $1.40.
Trinidad to Denver—Lump, $1.85; slack, $1.50.

It will be observed that the rates favor Walsenburg and Routt County over South Canon of 65 cents per ton on lump, 25 cents per ton on slack, and favor Trinidad over Palisade of 90 cents per ton on lump and $1.25 on slack. The same differential also exists to all points east of Denver. It is apparent to the Commission that the operators in the Palisade and South Canon districts cannot meet this situation. (6) While the distance is somewhat greater, the Colorado Midland Railway, one of the defendants herein, has indicated that it was willing to meet the situation and publish the Walsenburg basis of rates and assume the burden of division with the other carriers, and an order will therefore be entered in accordance with this view. (13) The Commission will not attempt to establish the division of rates between any two or more carriers unless the carriers fail to agree among themselves.

(14) The Commission feels that the system heretofore adopted by the carriers, and now in vogue, of applying a uniform rate from all mines in a certain district to a particular point, is equitable and fair, and the groupings in this particular, as now published

by the various carriers, evidenced by published tariffs on file, are recognized by the Commission in fixing rates, as shown by the accompanying order.

It is further understood that the South Canon group shall consist of and include the following points: Becker's Spur, Cardiff, Gulch, Doll, Marion, Newcastle, Pocahontas, Rifle, Silt, South Canon, Sunlight Spur, Union Spur, Vulcan, and the Palisade group, shall consist of and include the following points: Cameo, Gale, Palisade, and the rates fixed by the Commission in this cause shall apply uniformly from the several points in the respective groups.

(15) The Commission, in perusing the testimony and exhibits in this case, has discovered that the rates on coal are anything but uniform, and vary from approximately one cent per ton per mile for a haul of four or five hundred miles distant to four or five cents per ton per mile for short distances, the average being from two to two and one-half cents per ton per mile. Coal is one of the cheapest commodities carried by a railroad, and forms a considerable bulk of the carriers' traffic. The risk is slight, and it is usually carried at the convenience of the carrier, and, all things considered, should and could be carried at a much less rate per ton per mile than any other class of traffic. The average receipts per ton per mile on intrastate business in Colorado for the following lines for the year ending June 30, 1914, as shown by the annual reports on file with this Commission, and which have been considered as a part of this record, are as follows:

	Cents
Chicago, Burlington & Quincy	00.825
Atchison, Topeka & Santa Fe	01.504
Chicago, Rock Island & Pacific	00.856
Colorado & Southern	01.037
Colorado Midland	01.418
Denver & Rio Grande	01.223
Denver & Salt Lake	01.161
Missouri Pacific	00.685
Union Pacific	02.094

It will be seen from this that the general average on all classes of freight is considerably less than the rates heretofore applying on coal; in fact, the rates as fixed by the Commission in this cause will yield a much larger return per ton per mile to the carriers than the general average as shown above. The Commission finds that the rates as now charged by the defendant carriers are unjust and unreasonable, in so far as they exceed the rates as prescribed in the order attached herewith and made a part of this opinion. The Commission further finds that the rates named in the order are just and reasonable, and will give the carriers a sufficient return for the service performed.

The Commission has given careful consideration to the conditions surrounding each particular line, and feels that they have

been most liberal with the carriers in arriving at the various rates in this case. In no case, except in very long hauls, has the rate been reduced to less than one cent per ton per mile, the general average being from 12 to 14 mills per ton per mile.

ORDER.

This case being at issue upon motion of the Commission, and having been heard and full investigation of the matters and things involved having been had, and the Commission having considered the testimony and evidence of each of the defendants separate and apart from each other, and having made and filed a report containing its findings of fact and conclusions thereon, which said report is made a part hereof:

(1) It Is Ordered, That The Colorado & Southern Railway Company and The Denver & Rio Grande Railroad Company be, and they are hereby, ordered to cease and desist from charging, demanding, collecting or receiving their present rates for the transportation of slack and lump coal from Ludlow to Trinidad.

(1a) It Is Further Ordered, That The Colorado & Southern Railway Company and The Denver & Rio Grande Railroad Company be, and they are hereby, ordered to establish and put in force a rate of 60 cents per ton for the transportation of slack and lump coal, carloads, from Ludlow to Trinidad.

(2) It Is Further Ordered, That The Colorado Midland Railway Company, George W. Vallery, receiver, be, and it is hereby, ordered to cease and desist from charging, demanding, collecting or receiving its present rates for the transportation of slack, nut, mine run, egg and lump coal, from Beckers Spur, Cardiff, Doll, Gulch, Marion, New Castle, Pocahontas, Rifle, Silt, South Canon, Sunlight Spur, Union Spur and Vulcan to Glenwood Springs.

(2a) It Is Further Ordered, That The Colorado Midland Railway Company, George W. Vallery, receiver, be, and it is hereby, ordered to establish and put in force a rate of 60 cents per ton for the transportation of slack, nut, mine run, egg and lump coal, carloads, from Beckers Spur, Cardiff, Doll, Gulch, Marion, New Castle, Pocahontas, Rifle, Silt, South Canon, Sunlight Spur, Union Spur and Vulcan to Glenwood Springs.

(3) It Is Further Ordered, That The Colorado Midland Railway Company, George W. Vallery, receiver; The Atchison, Topeka & Santa Fe Railway Company, and The Colorado & Southern Railway Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting or receiving their present rates for the transportation of slack and lump

coal from mines in the South Canon district and from mines in the Palisade district to Denver.

(3a) It Is Further Ordered, That The Colorado Midland Railway Company, George W. Vallery, receiver; The Atchison, Topeka & Santa Fe Railway Company, and The Colorado & Southern Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates, in cents per ton, for the transportation of slack and lump coal, carloads:

	From South Canon District		From Palisade District	
To	Lump	Slack	Lump	Slack
Denver	160	140	185	150

(4) It Is Further Ordered, That The Atchison, Topeka & Santa Fe Railway Company; Chicago, Burlington & Quincy Railroad Company; The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers; The Colorado & Southeastern Railroad Company; The Colorado & Southern Railway Company; The Colorado & Wyoming Railway Company; The Colorado Midland Railway Company, George W. Vallery, receiver; The Denver & Rio Grande Railroad Company; The Denver & Salt Lake Railroad Company; The Missouri Pacific Railway Company, and the Union Pacific Railroad Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting or receiving their present rates for the transportation of lump coal from mines in the Baldwin, Bowie, Canon City, Northern Colorado, Oak Hills, Palisade, Pikeview, Roswell, South Canon, Trinidad and Walsenburg districts to points of destination as hereinafter specified in sub-sections 4a, 4b, 4c, 4d, 4e and 4f, on The Atchison, Topeka & Santa Fe Railway; the Chicago, Burlington & Quincy Railroad; the Chicago, Rock Island & Pacific Railway; the Denver & Rio Grande Railroad; the Missouri Pacific Railway, and the Union Pacific Railroad.

(4a) It Is Further Ordered, That The Atchison, Topeka & Santa Fe Railway Company be, and it is hereby, ordered to establish and put in force the following local rates from the Canon City, Pikeview and Trinidad districts; and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from the Walsenburg district; and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to maintain the same differentials from mines in the Trinidad district not located on the Atchison, Topeka & Santa Fe Railway, over the Trinidad rates as are at present in

effect to the points specified in sub-section 4a of this order. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination and shall be considered as maxima on all classes of coal:

To	From Canon City District	From Pikeview District	From Trinidad District	From Walsenburg District
Pueblo	100	100	...	...
Baxter	105	105	175	...
Nyburg	105	105	175	...
Boone	115	115	170	...
Nepesta	125	125	165	...
Fowler	130	130	160	195
Manzanola	140	140	150	185
Wietzer	140	140	150	185
Rocky Ford	150	150	145	180
Swink	155	155	140	175
La Junta	160	160	135	170
Casa	165	165	140	175
Las Animas	180	180	155	190
Caddoa	195	195	170	205
Prowers	205	205	185	215
Lamar	210	210	195	220
Koen	215	215	210	245
Granada	220	220	210	245
Amity	225	225	220	255
Holly	230	230	230	265
Shelton	160	160	145	180
Cheraw	165	165	150	185
Rixey	185	185	165	200
McClave	205	205	185	220
Big Bend	210	210	195	230
Karl	215	215	200	235
Bristol	220	220	210	245
Delite	230	230	230	265

To	From Trinidad District
Hoehnes	55
Earl	65
Poso	70
Tyrone	75
Thatcher	85
Delhi	95
Timpas	115
Ormega	130

(4b) It Is Further Ordered, That The Chicago, Burlington & Quincy Railroad Company be, and it is hereby, ordered to establish and put in force the following local rates from mines on its line in the Northern Colorado district; and The Chicago, Burlington & Quincy Railroad Company and The Denver & Rio Grande Railroad Company be, and they are hereby, ordered to establish and put in force the following joint through rates from mines in the Baldwin and Bowie districts; and The Chicago, Burlington &

Quincy Railroad Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg district; and The Chicago, Burlington & Quincy Railroad Company, The Atchison, Topeka & Santa Fe Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the same rates from mines in the Canon City district as are shown from the Walsenburg district; and The Chicago, Burlington & Quincy Railroad Company and The Denver & Salt Lake Railroad Company be, and they are hereby, ordered to establish and put in force the same rates from mines in the Oak Hills district as are shown from the Walsenburg district; and The Chicago, Burlington & Quincy Railroad Company, The Colorado Midland Railway Company, George W. Vallery, receiver; The Atchison, Topeka & Santa Fe Railway Company, and The Colorado & Southern Railway Company, be, and they are hereby, ordered to establish and put in force rates from mines in the South Canon district which shall be the same as the rates shown from the Walsenburg district, and rates from mines in the Palisade district which shall be 25 cents higher than the rates from the Walsenburg district; and The Chicago, Burlington & Quincy Railroad Company and The Atchison, Topeka & Santa Fe Railway Company be, and they are hereby, ordered to establish and put in force rates from mines in the Pikeview district which shall be the same as rates from the Walsenburg district; and The Chicago, Burlington & Quincy Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Colorado & Southeastern Railroad Company; The Colorado & Southern Railway Company; The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad district which shall be 25 cents higher than the rates from the Walsenburg district. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination, and shall be considered as maxima on all classes of coal:

To	From Baldwin District	From Bowie District	From Northern Colorado District	From Walsenburg District
Derby	285	340	80	190
Barr	295	350	90	200
Hudson	305	360	105	210
Keenesburg	310	370	115	220
Roggen	315	380	125	230
Crest	320	385	130	235
Wiggins	330	395	130	240
Fort Morgan	330	410	130	250
Lodi	345	415	135	260

Brush	345	420	135	265
Pinneo	355	430	160	270
Xenia	365	440	165	275
Akron	370	445	170	285
Otis	380	460	180	300
Hyde	385	465	185	305
Yuma	390	470	190	310
Schramm	395	475	195	315
Eckley	400	485	195	325
Robb	405	490	200	325
Wray	410	500	210	330
Laird	415	500	215	340
Camden	355	425	140	270
Hillrose	355	425	140	270
Trowel Ranch	360	430	140	275
Union	360	430	140	275
Balzac	365	435	140	280
Merino	370	440	150	285
Atwood	375	450	155	290
Sterling	380	455	160	295
Galien	390	465	185	305
Fleming	395	475	195	315
Haxtun	405	490	200	325
Paoli	410	495	200	330
Holyoke	415	505	200	340
Amherst	425	515	220	350
Stein	390	465	185	305
Willard	390	475	190	310
Stoneham	395	485	195	320
Raymer	400	490	200	325
Buckingham	410	495	210	335
Keota	415	505	215	340
Sligo	425	515	220	350
Grover	425	520	220	350
Hereford	425	520	240	350
Ackerman	390	465	180	305
Minto	390	465	180	305
Padroni	400	475	185	320
Winston	410	485	190	330
Peetz	420	500	195	345

(4c) It Is Further Ordered, That The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers, be, and it is hereby, ordered to establish and put in force the following local rates from mines in the Roswell district; and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Bowie district; and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers; The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg district; and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers; The Atchison, Topeka & Santa Fe Rail-

way Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Canon City district which shall be the same as the rates from the Walsenburg district; and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers, and The Denver & Salt Lake Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Oak Hills district which shall be the same as the rates from the Walsenburg district, but only to points east of Limon; and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers, and The Colorado Midland Railway Company, George W. Vallery, receiver, be, and they are hereby, ordered to establish and put in force rates from mines in the South Canon district which shall be the same as the rates from the Walsenburg district, and rates from mines in the Palisade district which shall be 25 cents higher than the rates from the Walsenburg district; and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers; The Atchison, Topeka & Santa Fe Railway Company; The Colorado & Southeastern Railroad Company; The Colorado & Southern Railway Company; The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad district which shall be 25 cents higher than the rates from the Walsenburg district. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination and shall be considered as maxima on all classes of coal:

To	From Bowie District	From Walsenburg District	From Roswell District
Roswell	350	150	...
Falcon	350	150	65
Peyton	375	175	80
Calhan	395	195	90
Ramah	405	205	105
Simla	410	210	110
Mattison	420	220	120
Resolis	430	230	130
Limon	...	245	145
Mustang	450	250	150
Genoa	455	255	155
Bovina	460	260	165
Arriba	470	270	170
Flagler	480	280	185
Seibert	495	295	200
Vona	505	305	210
Stratton	515	315	220
Bethune	525	325	230
Burlington	535	335	240

(4d) It Is Further Ordered, That The Denver & Rio Grande Railroad Company be, and it is hereby, ordered to establish and put in force the following local rate in cents per ton, carloads, for the transportation of lump coal, and which shall be considered as a maximum for all classes of coal:

To	From Pikeview District
Pueblo	100

(4e) It is Further Ordered, That The Missouri Pacific Railway Company and The Denver & Rio Grande Railroad Company be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Bowie district; and The Missouri Pacific Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg district; and The Missouri Pacific Railway Company, The Atchison, Topeka & Santa Fe Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from the Canon City district which shall be the same as the rates from the Walsenburg district; and The Missouri Pacific Railway Company and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish rates from mines in the Pikeview district which shall be 25 cents less than the rates from the Walsenburg district; and The Missouri Pacific Railway Company and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, receivers, be, and they are hereby, ordered to establish and put in force rates from mines in the Roswell district which shall be 25 cents less than rates from the Walsenburg district; and The Missouri Pacific Railway Company and The Atchison, Topeka & Santa Fé Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad district which shall be 25 cents higher than the rates from the Walsenburg district. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination, and shall be considered as maxima on all classes of coal:

To	From Bowie District	From Walsenburg District
Baxter	335	140
Nyburg	340	145
Boone	350	150

Nepesta	355	150
Olney Springs	370	155
Ordway	385	160
Sugar City	390	165
Lolita	395	170
Kilburn	405	180
Arlington	410	185
Haswell	425	200
Milan	430	205
Galatea	435	210
Eads	450	225
Chivington	465	245
Brandon	475	255
Sheridan Lake	475	260
Stuart	485	270
Towner	495	280

(4f) It Is Further Ordered, That the Union Pacific Railroad Company be, and it is hereby, ordered to establish and put in force the following local rates from mines on its line in the northern Colorado district; and the Union Pacific Railroad Company and The Denver & Rio Grande Railroad Company be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Baldwin and Bowie districts; and the Union Pacific Railroad Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg district; and the Union Pacific Railroad Company, The Atchison, Topeka & Santa Fe Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the same rates from mines in the Canon City district as are shown from the Walsenburg district; and the Union Pacific Railroad Company and The Denver & Salt Lake Railroad Company be, and they are hereby, ordered to establish and put in force the same rates from mines in the Oak Hills district as are shown from the Walsenburg district; and the Union Pacific Railroad Company, The Colorado Midland Railway Company, George W. Vallery, receiver; The Atchison, Topeka & Santa Fe Railway Company, and The Colorado & Southern Railway Company, be, and they are hereby, ordered to establish and put in force the same rates from mines in the South Canon district as are shown from the Walsenburg district, and from mines in the Palisade district which shall be 25 cents higher than the rates from the Walsenburg district; and the Union Pacific Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad district which shall be 25

cents higher than the rates from the Walsenburg district. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of destination specified and shall be considered as maxima on all classes of coal:

To	From Baldwin District	From Bowie District	From Northern Colorado District	From Walsenburg District
Sandown	285	350	80	200
Sable	290	355	90	200
Watkins	295	365	100	205
Bennett	305	370	110	215
Byers	315	385	120	225
Deer Trail	325	395	125	235
Agate	330	405	135	245
Limon	350	420	150	265
Lake	355	420	150	265
Bagdad	360	430	160	270
Hugo	360	435	160	275
Clifford	365	445	170	285
Boyero	370	450	175	290
Aroya	380	460	180	300
Kit Carson	395	475	200	315
Arena	400	480	205	320
Cheyenne Wells	415	500	215	335
Arapahoe	425	510	220	345
Chemung	425	510	225	350
Kersey	325	410	90	235
Kuner	325	410	95	235
Hardin	325	410	100	240
Masters	325	410	105	245
Orchard	325	410	110	250
Weldon	325	410	120	250
Fort Morgan	330	410	130	250
Snyder	345	425	135	270
Union	360	430	140	275
Balzac	365	435	140	280
Merino	370	440	150	285
Atwood	375	450	155	290
Sterling	380	455	160	295
Hayford	380	465	160	305
Powell	395	480	170	320
Crook	405	490	180	330
Sedgwick	405	490	190	330
Ovid	405	490	195	330
Julesburg	425	510	200	350

(5) It Is Further Ordered, That the several defendants as specified in this order shall publish and make effective the rates herein set forth by this order on or before August 1, 1915.

(SEAL)

SHERIDAN S. KENDALL,
GEORGE. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this tenth day of May, 1915.

In Re: SERVICE OF THE DENVER & INTER-MOUNTAIN RAILROAD COMPANY.

(Case No. 19.)

Service—Electric Railways—Adequacy.

Additional service ordered by the Commission on interurban railways where crowded condition of cars obtains.

(May 13, 1915.)

INVESTIGATION on the Commission's own motion, as to the overcrowding of cars on the Denver & Inter-Mountain Railroad; adequate service ordered.

By the Commission:

Complaints having been made to this Commission in regard to the service of the Denver & Inter-Mountain Railroad Company, the subject was called to the attention of the Inspection Department of this Commission, and on April 26, 1915, Inspector Mauff began the investigation.

On May 12 the Inspector made his final report to this Commission, which was to the effect that cars were sanitary and conductors courteous.

However, the Inspector found an overcrowded condition on the cars bound for Barnum Junction and Golden and leaving Denver at five and six o'clock p. m. Many women were compelled to stand for a period of over twenty minutes, and the congestion was such that, on May 12, 1915, Inspector Mauff recommended to this Commission:

First—That one passenger car should leave Denver bound for Golden at 5 p. m. and another at 6 p. m. every day, and that these cars be known as express cars, and making no stop until said cars arrive at Barnum Junction, except to accept passengers after these cars leave the Denver station.

Second—That a passenger car leave the Denver station of the defendant at 4:45 p. m. bound for Barnum, and shall operate on a fifteen-minute schedule, the last car operating under this schedule to leave at 6:15 p. m., at such time returning to a thirty-minute schedule during remainder of the day.

Hon. William G. Smith, president and general manager of the Denver & Inter-Mountain Railroad Company, acting in behalf of said defendant, and having agreed to this recommendation, no formal hearing is required.

ORDER.

It Is Ordered: First—On May 22, 1915, and every day thereafter until otherwise ordered by this Commission, one passenger car should leave the Denver & Inter-Mountain Railroad Company's depot in Denver at 5 o'clock p. m., and another at 6 o'clock p. m., both cars bound for Golden, and the same shall be designated as express cars, making no stops until they arrive at Barnum Junction, except to take on passengers after the said cars have left the Denver station.

Second—On or before May 22, 1915, and every day thereafter until otherwise ordered by this Commission, a passenger car shall leave the depot of the Denver & Inter-Mountain Railroad Company in Denver bound for Barnum at 4:45 p. m., 5:00 p. m., 5:15 p. m., 5:30 p. m., 5:45 p. m., 6:00 p. m., and 6:15 p. m., and shall operate thereafter on a thirty-minute schedule during remainder of the day.

M. H. AYLESWORTH,

(SEAL) GEO. T. BRADLEY,

Commissioners.

Dated at Denver, Colorado, this 13th day of May, 1915.

In Re: SERVICE AND RULES OF THE DENVER & INTERURBAN RAILROAD COMPANY.

(Case No. 17.)

(1) *Service—Electric Railways—Adequacy.*

An interurban railway with a running schedule of about one hour was ordered to attach a trailer to its cars upon leaving the starting point, and upon leaving, in either direction, a station about midway between the terminal points, whenever the seating capacity of the original car was filled, and at such other times as the conductor, in his discretion and from his experience, has reason to expect a congested condition of travel upon that trip.

(2) *Service—Electric Railways—Sanitation.*

An interurban railway with a running schedule of about one hour was ordered to clean certain of its cars which were in operation about eighteen hours a day, upon their arrival at the terminal point during the afternoon, which cleaning was to be done in addition to the daily cleaning which the railway company had previously been doing.

(3) *Service—Electric Railways—Express service—Parallel steam roads.*

The Commission refused to require an interurban railway to install an express service upon its road, where a steam railroad operated between all the stations through which the interurban railroad operated.

(4) *Service—Electric Railways—Baggage—Parallel steam railroads.*

The Commission refused to require an interurban railway to install baggage service for the convenience of its passengers, where it appeared that a steam railroad operated between all the towns through which the interurban railway passed, and that an arrangement could and would be made between the steam railroad and the interurban railway whereby the purchaser of a ticket upon the latter could, by paying a small sum in addition, check his baggage over the steam railroad.

(5) *Service—Electric Railways—Stopping interurban cars at city streets.*

An interurban railway which had not been stopping its cars between the terminal point in a city and the city limits was ordered to stop its outbound cars at certain streets for the convenience of many suburban passengers who desire to take the cars at some point between the terminal stop and the city limits.

(May 28, 1915.)

INVESTIGATION on the Commission's own motion relative to the service furnished by an interurban railway. The railway was ordered to add trailers to its cars whenever the traffic required it; to cleanse its cars more frequently than it had, and to place cuspidors in the smoking compartments thereof; and to stop its outbound cars at certain designated streets in the terminal

city. The Commission refused to require the railway to install express and baggage service, in view of the fact that a steam railroad operated through all of the towns through which the interurban railway ran.

APPEARANCES: E. E. Whitted for the respondent railway company; Charles O'Connor for the Boulder Commercial Club.

By the Commission:

Many informal complaints having been filed with the Commission in regard to the service, and the rules and regulations surrounding the same, of The Denver & Interurban Railroad Company, between Denver and Boulder and intermediate points, the Commission caused investigations to be made through its Inspection Department, and, subsequently, on the 23d day of April, 1915, began the above case on its own motion, and on April 29, 1915, at the Hearing Room of the Commission at the State Capitol in the City and County of Denver, evidence was introduced by the defendant and the Boulder Commercial Club and the Commission.

The defendant is an electric interurban railroad operating between Denver and Boulder and engaged in carrying passengers for hire, and does not carry baggage or express.

The investigation went to the entire question of the efficiency of the service, and the evidence developed the following issues, viz.:

1. Allegations were made that the service was congested in that at certain periods of the day the capacity of the cars of the defendant carrier was overtaxed and that passengers were compelled to stand.

2. That the cars of the defendant carrier were not sanitary.

3. That the defendant carrier did not carry baggage or express.

4. The defendant contended that it should not be compelled to stop its cars at Fifteenth, Sixteenth, Seventeenth, and Eighteenth Streets in the City of Denver after leaving the Interurban Central Loop.

CONGESTION.

The Commission is of the opinion that the question of congestion has been partially decided by the defendant, in that subsequent to the first investigation of the Commission, made in January, 1915, the defendant greatly improved its service in this regard upon the recommendation of this Commission. However, there is evidence before this Commission that at certain periods of the day the capacity of the cars of the defendant is overtaxed, causing passengers to remain standing for some length of time. The defendant is not a local tramway, but is, in fact, an interurban

railroad with a running schedule of about one hour between its starting point at Denver and its destination at Boulder, and passengers should not be compelled to stand, even during the congested periods, on a journey of this length. (1) We are of the opinion that a trailer car should be placed at the Central Interurban Loop in Denver, and that the defendant should attach the said trailer when the seating capacity of the original car is filled, and at such other times as the conductor, in his discretion and from his experience, has reason to expect a congested condition of travel upon that trip. We believe that a trailer car should be placed at Broomfield station, which is about half way between Boulder and Denver, and that the defendant should attach the said trailer car to the car operating between Denver and Boulder, running north, when the seating capacity of the original car is filled upon the said car arriving at or leaving Broomfield, and at such other times as the conductor, in his discretion or from his experience, has reason to expect a condition of congested travel upon the said trip. That each car between Boulder and Denver, and running south, should have attached thereto a trailer car at the station of Broomfield, should the seating capacity of the original car be entirely filled upon arriving at or departing from Broomfield station, or at such other times as the conductor, in his discretion and from his experience, has reason to expect a condition of congested traffic. We believe that this will, to a large extent, solve the problem of congested traffic upon the lines of the defendant.

SANITATION OF CARS.

It appears from the evidence that the cars of the defendant are in operation between the hours of 6:20 a. m. and 12:50 a. m. each and every day of the year, and that passengers are loaded and unloaded on each of said cars hourly every day. We further find that the said cars are cleaned by the defendant once each day. It also appears from the evidence that the cars of the defendant have installed thereon smoking compartments, and, while signs adorn the walls of said cars informing the passengers that expectorating upon the floors will not be tolerated, there seem to be no receptacles in which to expectorate.

We are of the opinion that cuspidors should be installed in the smoking compartments of each and every car operated by the defendant between Denver and Boulder.

(2) We feel that, due to the peculiar traffic conditions of an interurban railroad of this character, the cars should be cleaned twice each day, and are of the opinion that each car of the defendant in operation between Denver and Boulder should be cleaned by the defendant during the afternoon of each and every day at the Central Interurban Loop in Denver.

BAGGAGE AND EXPRESS.

It has been suggested by certain complainants, who have testified in the above case before this Commission, that express service should be installed by the defendant. (3) It so happens that a steam railroad operates between all stations through which the said defendant operates, and therefore we shall not order express service at this time.

(4) A representative of The Colorado & Southern Railway Company testified before this Commission in the above case to the effect that an arrangement could be made between the said The Denver & Interurban Railroad Company and The Colorado & Southern Railway Company so that a purchaser of a ticket upon the lines of the defendant could, by paying a small sum in addition, check his baggage upon the Colorado & Southern Railway, and we are of the opinion that this will be very convenient for passengers traveling upon the lines of the said defendant carrier, and we shall make an order to this effect, rather than to order the defendant to go to the additional expense of accepting baggage upon its cars and installing the additional equipment and help required for such service.

ACCEPTING PASSENGERS AFTER LEAVING THE DENVER INTERURBAN LOOP.

(5) The Commission finds from the evidence that many suburban shoppers travel upon the cars of the defendant carrier and are greatly inconvenienced because of being compelled to board the defendant carrier's cars at its Central Loop. We are of the opinion that the outbound cars of the defendant should stop and take on passengers at Sixteenth and Seventeenth Streets in the City of Denver.

It Is Therefore Ordered:

CONGESTION.

That one trailer car shall be placed at the Central Interurban Loop of this defendant in the City of Denver, and one trailer car shall be placed by this defendant at Broomfield station on defendant's lines; these trailers to be in place at said Central Loop and Broomfield station except when in use under the following conditions:

(a) The original car leaving the Denver Central Loop of the defendant shall have attached thereto a trailer car when the seating capacity of the original car is filled, and at such other times as the conductor in charge, in his discretion and from his experience, has reason to anticipate a congested condition of travel upon that trip.

(b) The trailer car placed at Broomfield station shall be attached to the original car of said defendant operating between Denver and Boulder, and running north, in the event the seating capacity of the original car is filled, or at such other times as the conductor in charge, in his discretion and from his experience, has reason to anticipate a congested condition of travel upon that trip.

(c) The original car of the defendant operating between Boulder and Denver, and running south, shall have attached thereto a trailer car at Broomfield station in the event the seating capacity of the car is filled after passengers are taken on at Broomfield, and at such other times as the conductor in charge, in his discretion and from his experience, has reason to anticipate a congested condition of travel upon that trip.

SANITATION OF CARS.

(a) That the car or cars due at the Central Interurban Loop in Denver at 1:50 p. m., 2:50 p. m. and 3:50 p. m., being trains numbered 312, 314 and 316, respectively, shall be thoroughly cleaned by the defendant carrier upon arrival each and every day, and under the supervision of the Inspection Department of the Commission, prior to passengers boarding said cars for outbound trips.

(b) That suitable cuspidors shall be installed in the smoking compartments of all cars operated by the defendant.

(c) Nothing herein contained shall permit the defendant to otherwise change or modify its sanitary rules and regulations now in force and effect.

BAGGAGE AND EXPRESS.

That the defendant company shall contract with The Colorado & Southern Railway Company in accordance with the agreement between said defendant company and The Colorado & Southern Railway Company, as testified to before this Commission at the hearing of the above cause, to the end that any person purchasing a ticket upon the defendant's lines at Boulder or Denver, and paying twenty-five (25) cents in addition at the station of The Colorado & Southern Railway Company in Boulder or Denver, shall have the privilege of having baggage carried upon the Colorado & Southern Railway, in accordance with its baggage rules and regulations, when same is destined to Boulder or Denver.

ACCEPTING PASSENGERS AFTER LEAVING DENVER INTERURBAN LOOP.

That all trains of the defendant carrier shall stop and accept passengers at Sixteenth and Seventeenth Streets in the City of Denver.

This order shall become effective on the 1st day of June, 1915.

M. H. AYLESWORTH,
(SEAL) GEO. T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 28th day of May, 1915.

THE CITY OF FLORENCE

v.

THE ARKANSAS VALLEY ELECTRIC COMPANY, et al.

(Case No. 15.)

(1) *Rates—Electric—Municipality—Contracts—Reasonableness.*

Municipality not being in position to contract with generating company for purchase of electric energy and distribution thereof, question of reasonableness of rates charged distributing company by generating company held not in question in investigation as to the reasonableness of rates charged by distributing company.

(2) *Apportionment—Electric—Values, earnings and expenses.*

Values, expenses and earnings of electric distributing company apportioned in a valuation for rate making purposes between municipal, domestic and commercial current.

(3) *Valuation—Electric—Working Capital.*

In a valuation for rate making purposes, $1,500 having been found excessive, $1,000 was allowed as working capital, to be included in the estimated cost of reproduction new less depreciation of the electric property of a utility used or useful in the public service, which was fixed at $25,561.

(4) *Apportionment—Expenses—General Office.*

In a valuation for rate making purposes of an electric operating utility the apportionment of general office expenses between its four properties was found unreasonable and proper apportionment made.

(5) *Service—Electric—Lamps—Efficiency of.*

Tungsten lamps requiring only 50 per cent of energy necessary for carbon filament lamps of same voltage, a company was ordered to place tungsten lamps on sale.

(6) *Rates—Electric—Minimum charge.*

A minimum monthly charge of $1.50 for electricity having been found unreasonable, a charge of $1.00 for domestic and commercial use was fixed as reasonable.

(June 12, 1915.)

COMPLAINT that the rates for electric energy charged a distributing company by a generating company, and that the rates charged consumers in the city of Florence were excessive; that portion of the complaint as to the reasonableness of the

rates charged the distributing company dismissed; rates charged by distributing company found excessive and reasonable rates prescribed.

APPEARANCES: Geo. H. Wilkes for the complainant; J. W. Stearns for the defendant The Arkansas Valley Electric Company; Devine & Preston for the defendant The Arkansas Valley Railway, Light & Power Company.

By the Commission:

On March 25, 1915, the City of Florence, complainant, filed its duly verified petition with this Commission, alleging, among other things, that the two defendants had entered into an agreement under which The Arkansas Valley Railway, Light & Power Company, hereinafter called the "Generating Company," had contracted to furnish electric energy for a period of years to The Arkansas Valley Electric Company, which Company now furnishes electric energy to the City of Florence and vicinity, and is hereinafter called the "Distributing Company," and that the Generating Company, one of the defendants, had refused to offer for sale electric energy to the City of Florence in the event the said City of Florence, complainant herein, should construct a municipal lighting plant; and that the defendant Distributing Company has in force and effect excessive and unreasonable rates for electric current for lighting and domestic uses as well as for power purposes; that the Generating Company has in force and effect an excessive charge for electric current sold to the Distributing Company.

Upon April 14, 1915, the Distributing Company filed its verified answer to said complaint and on the same day the Generating Company filed its verified answer to said petition and complaint. The defendant Distributing Company, in its answer, denies the allegations set forth in the petition of complainant and alleges that the charges now in force and effect are reasonable. The defendant Generating Company denies that it has refused to sell electric energy to the City of Florence and alleges that the City of Florence is not in position to enter into a contract with said defendant for the wholesaling of electric energy, and that its present charges for electric energy to the defendant Distributing Company are reasonable.

Due notice having been given, the above cause convened in the City of Florence in the County of Fremont, State of Colorado, at the City Hall, on May 17, 1915, with Commissioners Bradley and Aylesworth presiding. (1) The Commission at this time ruled that until such time as the City of Florence, through a vote of its people, would be in a position to contract for the purchase of electric energy for a municipally owned electric light plant it would not consider the allegations set forth in the complainant's petition in regard to the alleged discrimina-

tory contract between the defendants, and that for the purposes of this hearing it would assume that the present charge for electric current of the Generating Company to the Distributing Company, to-wit: 2¼ cents per KWH for light and power purposes was a reasonable charge.

Hon. Geo. H. Wilkes, Attorney for the City of Florence, then made his opening statement, requesting that the petition of the complainant be amended to include an investigation into the service of the Distributing Company to the City of Florence and its people, and, no objection being made by the defendants to this request, the Commission permitted the amendment to the petition. The City Attorney then stated that the case of the complainant would be made up of the following issues, viz.: First, adequacy of service; second, the reasonableness of the domestic, commercial and power rates for electric current to the residents of Florence.

It having appeared that the complainant has, a short time prior to this hearing, entered into an agreement with the Distributing Company for the furnishing of electric energy by the said defendant to the City of Florence for municipal lighting for a period of five years, and as there seemed to be no objections to the terms of this contract, the Commission will not disturb the same.

The schedule of the Distributing Company, containing the rates now in force and effect, and on file with this Commission, is as follows:

LIGHTING RATES.

General, for residences and commercial lighting:

13*c up to* 50 *KWH;*
12*c from* 50 *to* 150 *KWH;*
11*c from* 150 *to* 250 *KWH;*
10*c from* 250 *to* 350 *KWH;*
9*c over* 350 *KWH.*

Ten per cent discount for payment of bill by the 10*th of the month succeeding service.*

Minimum—$1.50 *net.*

Meter deposit—$10.00 *for commercial houses;* $5.00 *for residences.*

Carbon renewals free.

Sign Rates:

Less than 300 *watts*—12*c per* 5*-watt lamp to midnight;*
300 *watts and over*—10*c per* 5*-watt lamp to midnight.*
Customers' own signs.
Free renewals.

Municipal:

$2.00 *per month for* 80 *c. p. Mazda light;*
$6.00 *per arc, burning all night.*
Incandescent lights for City Hall and Library included.

POWER RATES.

General:

10*c for less than* 150 *KWH;*
9*c for* 150 *to* 250 *KWH;*
8*c for* 250 *to* 500 *KWH;*
7*c for* 500 *to* 750 *KWH;*
6*c for* 750 *to* 1,000 *KWH;*
5½*c for* 1,000 *KWH and over;*
Minimum, $1.00 *per H. P.*
Above rates to apply to moving picture machines.

It appears from the evidence introduced by the complainant that many citizens of the City of Florence are dissatisfied with the lighting rates now in force and effect, and for that reason the city council had two electrical engineers report on the feasibility and cost of construction of a municipally owned electric lighting plant, and the cost of development of electric energy by such a plant.

The defendant Distributing Company introduced citizens of Florence who testified that there was no dissatisfaction with the charges for electric energy now in force and effect in the City of Florence, and defended its present schedule as a reasonable one through the testimony of Mr. Stearns, its manager; Mr. F. C. E. Wessel, its local superintendent; Mr. J. J. Cooper, an employe of the Company, and Mr. Raber, general manager of the Generating Company.

At the conclusion of the presentation of evidence by the complainant and defendants, the Commission called Mr. F. W. Herbert, statistician and accountant for the Commission, who presented in evidence the book valuation of the Distributing Company and the prices paid by it for electric energy furnished wholesale by the Generating Company; the fixed charges of the Distributing Company as shown by its books, and the operating expenses and revenues of the Distributing Company. Mr. F. J. Rankin, electrical engineer for the Commission, then testified as to the present value of the property of the Distributing Company in use and useful for the purpose of furnishing electric energy to the City of Florence and the residents thereof.

(2) Mr. Rankin also apportioned the operating expense of the Distributing Company in the City of Florence to municipal lighting, and domestic and commercial lighting. He also gave the Commission the benefit of his judgment and experience by apportioning the present value of the property of the Distributing Company as to municipal lighting and domestic lighting.

The following table illustrates the cost of reproduction and the present value of the property of the Distributing Company, in use and useful to the City of Florence and its residents, as found by Mr. Rankin, together with the operating expenses and

revenues of the Distributing Company, as taken from its books and apportioned by him:

	Cost of Reproduction	Present Value
Buildings	$ 2,800.00	$ 1,300.00
Distribution system; general	11,867.67	9,019.45
Distribution, street lighting	4,600.41	4,600.41
High tension transmission	215.90	153.73
Sub-station equipment	4,887.40	3,567.80
Connections to consumers	2,376.15	1,862.89
Consumers' meters	2,890.45	2,066.66
Office furniture	300.00	222.20
Tools and implements	386.45	193.22
Stores and supplies	1,374.33	1,374.33
Land	700.00	700.00
Working capital	1,500.00	1,500.00
Total	$33,898.76	$26,560.69

Mr. Rankin estimated that the cost of reproduction of the above equipment in use for domestic purposes was $27,062.65; the cost of reproduction of street lighting equipment $5,730.94; and the cost of reproduction of that part of the above equipment used for handling a small power load outside the city limits was $1,105.17. He found the present value of the above, for the three different classes of service mentioned, as follows: Domestic, $20,225.20; street lighting, $5,517.61; outside power, $817.18.

Operating Expenses as Taken from the Company's Books.

Current:	
Domestic	$ 3,016.90
Municipal	1,080.00
Union Mill	293.65
United Oil	1,377.00
Total current	$ 5,767.55
General:	
Management and engineering	$ 1,500.00
Denver office	500.00
Florence office	800.00
Automobile expense	100.00
Labor	2,000.00
Collections	100.00
Lamp renewals	100.00
Lamp renewals, municipal	145.20
Taxes and insurance	640.00
Maintenance	903.90
Grand total	$12,556.65
Annual depreciation	$ 1,299.28

Revenue from All Customers Served:

Domestic	$10,760.38
Municipal	2,976.00
Union Mill	623.05
United Oil	1,837.20
Profit on merchandise	202.69
Total revenue	$16,399.32

Division of Operating Expenses:

	Domestic	Municipal	Outside Power
Current	$3,016.90	$1,080.00	$1,670.65
Management & engrg.	1,200.00	300.00	.....
Denver office	400.00	100.00	.....
Florence office	700.00	100.00	.....
Automobile	50.00	50.00	.....
Labor	1,800.00	200.00	.....
Collections	100.00	.....	.....
Lamp renewals	100.00	145.20	.....
Taxes and insurance	500.00	140.00	.....
Depreciation	1,041.43	217.00	40.85
Maintenance	723.15	156.75	24.00
Total	$9,631.48	$2,488.95	$1,735.50

VALUATION.

We agree with the valuations of our Engineer with two exceptions; the first being the valuation of $700.00 placed upon the lands of the Company by him, and as to this value we must conclude, according to the weight of the testimony introduced before the Commission by reliable and well-informed citizens of Florence, that the value of said land shall not exceed $200.00; (3) and as to our second exception, we shall reduce the working capital of the Distributing Company to the sum of $1,000.00 rather than $1,500.00 as estimated by Mr. Rankin. There was some conflicting testimony as to the present value of the sub-station building of the Distributing Company at Florence, but we feel that a value of $1,300.00 is not excessive. We are unable to take the view that the present market value of this building is the value for rate making purposes. We are quite confident that the Distributing Company would be unable to erect a suitable sub-station for a sum less than $1,300.00, and as the present structure serves the purpose, we shall not disturb that valuation.

OPERATING EXPENSES.

We are further of the opinion that the operating expenses, as taken from the books of the Distributing Company by Mr. Herbert, statistician for the Commission, should be increased to

the extent that three per cent of the present value of the property of the Distributing Company should be added as a fixed charge for maintenance and repairs, as allowed by Mr. Rankin.

Mr. Rankin has apportioned the operating expenses of the Distributing Company, as taken from its books, to power, domestic and commercial lighting, and municipal lighting. We are of the opinion that this apportionment is approximately correct. We agree with Mr. Stearns, the General Manager of the Distributing Company, that a general office expense should be allowed by the Commission in this case. It appears from the evidence that The Mountain Electric Company manages four electric properties, one of which is the Distributing Company in Florence, and that a general office is maintained in the City of Denver for this purpose. **(4)** We are of the opinion, however, that the general office expense, which exceeds $7,200.00 annually for the four properties, is excessive for rate making purposes, and that the apportionment made on the books of the Company, charging the Florence property, the largest property of the four, with approximately $2,400.00 per annum, is also excessive, and we have reduced the same to an amount which is fair and equitable to Florence and its people.

(5) Mr. Rankin also testified at the hearing of the above cause that the ordinary 16 c. p. carbon filament lamp consumes about one hundred per cent more electric energy than a tungsten lamp giving approximately the same amount of light, and we are therefore of the opinion that the Distributing Company should keep on sale at its office tungsten lamps of all sizes in general use, and to sell the same to its customers at the market price, and in every way possible encourage the use of these lamps.

(6) We are of the opinion that the minimum rate of $1.50 for domestic and commercial use is unreasonable, and that a minimum of $1.00 net, per month, is reasonable.

We are of the opinion that the service of the Distributing Company is adequate, with one exception, which was ordered corrected by the Commission at the hearing of this cause.

We are also of the opinion that the recommended schedule of rates, as hereinafter set forth, for domestic and commercial consumption, will give a fair return to the Distributing Company upon the present value of its property in use and useful for service within the City of Florence, and are of the opinion, from a careful examination of the reports of the electrical engineers retained by the City of Florence, that the said city could not, in accordance with the figures presented by those engineers, construct a municipally owned electric light plant and give more efficient service than is now rendered by the Distributing Company, and could not offer lower charges than have been made by this Commission in this cause.

Under the new schedule of rates, as made by the Commission, the charge to the resident consumer for electric energy will

not exceed 10.8 cents per KWH, which charge we believe to be fair and equitable to the Distributing Company and the people of Florence.

After a careful examination of the record in this cause we are of the opinion that the following schedule of rates is reasonable, and in so far as the present rates are changed by the order of this Commission the rates heretofore in force and effect are unreasonable:

LIGHTING RATES.

General, for Domestic and Commercial Lighting:

12c per KWH up to 40 KWH;
10c per KWH from 40 to 140 KWH;
8c per KWH from 140 to 640 KWH;
5c per KWH for all in excess of the above;
Ten per cent discount if paid within 10 days after due.
$1.00 minimum, net.
Free carbon renewals.
Meter deposits:
$ 5.00 for residence lighting;
$10.00 for commercial lighting.

Municipal:

Present schedule approved.

Power:

7c per KWH for the first 60 hrs.' use of maximum demand;
5½ per KWH for the next 120 hrs.' use of maximum demand;
4c per KWH for all current consumed in excess of above.
Ten per cent discount if paid within 10 days after due.
Minimum bill, $1.00 per H. P., connected.

Sign and Window Lighting:

$1.00 per month for 100 watts, connected.
Flat rate, no meter.
Consumer to furnish lamps.
No discount.
Minimum bill, 50c per month.

ORDER.

It Is Therefore Ordered, That The Arkansas Valley Electric Company, a corporation, shall adopt and file with the Commission the following schedule of rates for the City of Florence, Colorado:

SCHEDULE OF RATES.

General, for Domestic and Commercial Lighting:

12c per KWH up to 40 KWH;
10c per KWH from 40 to 140 KWH;
8c per KWH from 140 to 640 KWH;
5c per KWH for all in excess of the above.
Ten per cent discount if paid within 10 days after due.
$1.00 minimum, net.
Free carbon renewals.
Meter Deposits:
$ 5.00 for residence lighting;
$10.00 for commercial lighting.

Municipal:

Present schedule approved.

Power:

7c per KWH for the first 60 hrs.' use of maximum demand;
5½c per KWH for the next 120 hrs.' use of maximum demand;
4c per KWH for all current consumed in excess of above.
Ten per cent discount if paid within 10 days after due.
Minimum bill, $1.00 per H. P., connected.

Sign and Window Lighting:

$1.00 per month for 100 watts, connected.
Consumer to furnish lamps.
No discount.
Minimum bill, 50c per month.

This order shall become effective on July 1, 1915, and these charges shall be made for the month of July, 1915.

M. H. AYLESWORTH,
(SEAL) GEO. T. BRADLEY,
Commissioners.

Dated this 12th day of June, 1915, at Denver, Colorado.

In Re: PROTECTION AT CROSSING OF CHICAGO, BURLINGTON & QUINCY RAILROAD AT YUMA.

(Case No. 23.)

Crossings—Grade—Protections—Adequacy.

An electric safety gong was ordered installed where the evidence showed that protection afforded at grade crossings was insufficient.

(June 28, 1915.)

INVESTIGATION on the Commission's own motion as to sufficiency of protection afforded at grade crossing at Yuma; electric safety device was ordered installed.

APPEARANCES: U. G. Hobson, Trainmaster, for the defendant.

By the Commission:

On May 11, 1915, the Commission received a complaint from the Town of Yuma, within the State of Colorado, alleging that the defendant maintained a dangerous railroad crossing at Weld Avenue in said Town. On May 12, 1915, Inspector Fairchild, acting for the Commission, investigated the complaint of the Town of Yuma, and on May 13, 1915, reported the railroad crossing to be dangerous and unsafe. It then became necessary for the Commission to initiate a complaint against the defendant, Chicago, Burlington & Quincy Railroad Company, upon its own motion, ordering the defendant to appear at the Hearing Room of the Commission in Denver, Colorado, at 10:00 o'clock a. m. on the 28th day of June, 1915, before the Commissioners en banc, to make such defense to the above cause as might be thought necessary by the said defendant.

The report of Inspector Fairchild was introduced into the record, and Trainmaster Hobson testified for the defendant, stating that the defendant was ready to install at its railroad crossing on Weld Avenue in the Town of Yuma a suitable electric gong safety signal.

The Commission finds from the evidence that the railroad crossing of the defendant at Weld Avenue, within the Town of Yuma, Colorado, is unsafe.

ORDER.

It Is Therefore Ordered, That The Chicago, Burlington & Quincy Railroad Company, a corporation, shall install an electric gong at its railroad crossing at Weld Avenue, within the Town of Yuma, State of Colorado, within thirty (30) days from the date hereof, and that the electric safety gong shall be so installed as to sound a sufficient and continuous warning while the trains of the defendant are within one thousand (1,000) feet of said crossing.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners

Dated at Denver, Colorado, this 28th day of June, 1915.

THE CITY OF CANON CITY

v.

THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, THE CANON CITY & CRIPPLE CREEK RAILROAD COMPANY.

THE CITY OF FLORENCE, Intervenor.

(R. R. Comm. Case No. 52.)

Charters—Railroads—Abandonment—Commission's jurisdiction.

Where it appears that a railroad company has duly dissolved and surrendered its charter and has ceased to do business, pursuant to, and in the manner and form provided by the laws of the State of Colorado, the Commission is without power to enforce a previous order requiring the said carrier to operate its road.

(July 1, 1915.)

COMPLAINT against the abandonment of service by the Florence and Cripple Creek Railroad Company between Canon City and Cripple Creek, its roadbed having been almost entirely displaced by washouts; the carrier having surrendered its charter and dissolved the company according to law, the Commission is without power to enforce an order requiring the rebuilding of track and the operation of trains.

APPEARANCES: Augustus Pease and Arthur H. McLain for the petitioner; Ralph Hartzell for the defendants; Geo. H. Wilkes for the intervenor.

By the Commission:

ORDER TO SHOW CAUSE.

Whereas, The State Railroad Commission of Colorado, on April 4, 1914, in Case No. 52, the City of Canon City, in the County of Fremont, and State of Colorado, Complainant, against The Florence and Cripple Creek Railroad Company, and The Canon City and Cripple Creek Railroad Company, Defendants, did enter an order in the above cause to become effective July 6, 1914, and to continue for two (2) years thereafter, as follows:

"It Is Ordered that the defendant The Canon City & Cripple Creek Railroad Company be, and it is hereby, notified and directed to, on or before the 6th day of July, 1914, and during a period of two years thereafter, maintain, operate, and conduct, either by its own operation or through a lessee, or otherwise, a through combination freight and passenger train service from Canon City, Colorado, to Ora Junta, Colorado, at least once each day each week except Sunday, and from Ora Junta to Canon City at least once each day each week, except Sunday.

And that it publish, on or before the 6th day of July, 1914, its freight and passenger tariffs.

It Is Also Ordered, That said defendant fix its time schedule so as to connect with the train of The Florence & Cripple Creek Railroad at Ora Junta, and that they receive and transport shipments to and from all stations between Canon City, Colorado, and Ora Junta, Colorado.

It Is Ordered, further, That the defendant The Florence & Cripple Creek Railroad Company, be, and it is hereby, notified and directed to, on or before the 6th day of July, 1914, repair its line of railroad in such manner as will place it in a safe operating condition, and during a period of two years thereafter maintain, operate, and conduct a through combination freight and passenger train service from Ora Junta, Colorado, to Cripple Creek, Colorado, at least once each day each week, except Sunday, and from Cripple Creek to Ora Junta at least once each day each week, except Sunday.

And that it publish, on or before the 6th day of July, 1914, its freight and passenger tariffs, and that they receive and transport shipments to and from all stations between Ora Junta and Cripple Creek.

It Is Further Ordered, That said defendant fix its time schedules so as to connect with the train of the Canon City & Cripple Creek Railroad at Ora Junta.

And should defendant The Florence & Cripple Creek Railroad Company operate its trains by lease over the line of the Canon City & Cripple Creek Railroad, then it shall publish through freight and passenger schedules from Canon City, Colorado, to Cripple Creek, Colorado.

Effective the 6th day of July, 1914, and for two years thereafter.

By order of the Commission,

(Signed) AARON P. ANDERSON,
(SEAL) SHERIDAN S. KENDALL,
GEO. T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 4th day of April, 1914."

The effective date of the above order having been suspended by the Public Utilities Commission of the State of Colorado, successor to the State Railroad Commission of the State of Colorado, to become effective July 1, 1915; and,

Whereas, On the 11th day of May, 1915, The Florence & Cripple Creek Railroad Company filed with this Commission a certified copy of the transcript of the Certificate of Dissolution of The Florence & Cripple Creek Railroad Company, as filed in the office of the Honorable John E. Ramer, Secretary of State, of the State of Colorado, on the 10th day of May, 1915, at 2:48 o'clock, P. M.; and,

Whereas, It appears to this Commission that the dissolution of said Defendant Company was made in accordance with the Laws of the State of Colorado; and,

Whereas, The said Defendant Company did, on May 11, 1915, file with this Commission a Petition, through its Trustees in Dissolution, namely, H. M. Blackmer, K. C. Schuyler, C. M. MacNeill and C. C. Hamlin, to set aside the order of the State Railroad Commission of Colorado, effective July 1, 1915, and alleging in its petition among other things that the Defendant, The Florence & Cripple Creek Railroad Company, did, on the 27th day of April, 1915, dissolve and surrender its Charter and ceased to do business in the manner and form provided by the Laws of the State of Colorado; and,

Whereas, This Commission did give due notice to the Complainant, the City of Canon City, and Intervenor, the City of Florence, that the said Petition to set aside the order of this Commission would be heard by the Commission on Monday, the 24th day of May, 1915, at 10:00 o'clock, A. M., in the Hearing Room of the Commission, at the Capitol Building, in the City of Denver, and State of Colorado; and,

Whereas, On Monday, the 24th day of May, 1915, at 10:00 o'clock, A. M., the petitioner appeared through its Attorneys, Ralph Hartzell and Schuyler & Schuyler; and,

Whereas, The Complainant and the Intervenor made no appearance on this day, or any other day subsequent to the notice served by the Commission upon the Complainant and Intervenor; and,

Whereas, It appears to this Commission that the Defendant, The Florence & Cripple Creek Railroad Company, has duly dissolved and surrendered its Charter and has ceased to do business, pursuant to, and in the manner and form provided by the Laws of the State of Colorado, and it further appearing to the Commission that there is no legal procedure open to this Commission to enforce its order effective July 1, 1915, in the above cause, you, the Complainant, the City of Canon City, and you, the Intervenor, the City of Florence, are, by this order to show

cause, given thirty (30) days in which to appear before the Commission and show why the said Commission should not recognize the dissolution of the Defendant Company, and close the files of this Commission in Case No. 52.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 1st day of July, 1915.

In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

PETITION of the Union Pacific Railroad Company for re-hearing in Case No. 10, decided May 10, 1915, in respect to rates from the South Canon and Palisade Districts; denied.

(July 23, 1915.)

By the Commission:

Whereas, On the 13th day of July, 1915, the Union Pacific Railroad Company, a Corporation, and one of the defendants in the above cause, did file with this Commission its petition for a re-hearing of the above cause, in so far as the order of this Commission made on May 10, 1915, established joint and through rates on Coal from the South Canon and Palisade Coal Mining districts;

And, The Commission having given due consideration to the allegations set forth in said petition;

It Is Ordered by this Commission that the petition of the petitioner, the Union Pacific Railroad Company, be denied.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 23rd day of July, 1915.

In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

PETITION of The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, Receivers, for re-hearing in Case No. 10, decided May 10, 1915, in respect to rates to destinations on the Chicago, Rock Island & Pacific Railway; denied.

(July 23, 1915.)

By the Commission:

Whereas, On the 19th day of July, 1915, The Chicago, Rock Island & Pacific Railway Company, by and through its receivers, H. U. Mudge and Jacob M. Dickinson, did file with this Commission its petition for a re-hearing of Case No. 10, decided by this Commission on the 10th day of May, 1915, as to that part of said decision and order which establishes local and joint through rates on coal to the various points of destination in the State of Colorado on the line of The Chicago, Rock Island & Pacific Railway Company;

And, The Commission having given due consideration to the allegations set forth in said petition;

It Is Ordered, By this Commission, that the petition of the petitioner, The Chicago, Rock Island & Pacific Railway Company, be denied.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 23rd day of July, 1915.

In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

PETITION of The Denver & Salt Lake Railroad Company for re-hearing in Case No. 10, decided May 10, 1915, in respect to rates from points on the Denver & Salt Lake Railroad; denied.

(July 23, 1915.)

By the Commission:

Whereas, On the 19th day of July, 1915, The Denver & Salt Lake Railroad Company, a Corporation, one of the defendants in the above entitled cause, did file with this Commission its certain petition for a re-hearing of the above cause, in so far as the same affects the joint rates to be charged for shipments of coal from the mines in the Oak Hills District, as fixed or affected by paragraphs 4, 4-b, 4-c and 4-f of the order entered by the Commission in said cause;

And, The Commission having given due consideration to the allegations set forth in said petition;

It Is Ordered, By this Commission, that the petition of the petitioner, The Denver & Salt Lake Railroad Company, be denied.

The petitioner requests an order of this Commission specifying the respective portions of the said through rates established by this Commission in its order of May 10, 1915. The prayer of the petition is denied for the reason that it has not been properly brought to the attention of the Commission.

Petitions for a re-hearing of the above cause have been filed by the defendants with this Commission, and have this day been denied. If the participating carriers are unable to agree upon their respective portions of the joint through rates established by this Commission in its order of May 10, 1915, the same may be brought to the attention of this Commission through a proper petition filed with the Commission at a date subsequent to the date of this order.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 24th day of July, 1915.

In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

PETITION of The Huerfano Coal Company for re-hearing in Case No. 10, decided May 10, 1915, in respect to rates from Ludlow to Trinidad; denied.

(July 23, 1915.)

By the Commission:

Whereas, On the 19th day of July, 1915, The Huerfano Coal Company, one of the intervenors in the above cause, filed with this Commission its petition for a re-hearing of the above cause, in so far as the order made by this Commission in the above cause, made a rate of 60 cents per ton for transporting coal from Ludlow, Colorado, to Trinidad, Colorado;

And, The Commission having given due consideration to the allegations set forth in said petition;

It Is Ordered, By this Commission, that the petition of the petitioner, The Huerfano Coal Company, be denied.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 23rd day of July, 1915.

In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

PETITION of The Colorado & Southern Railway Company for re-hearing in Case No. 10, decided May 10, 1915, in respect to rates from the South Canon and Palisade Districts to Denver; denied.

APPEARANCES: E. E. Whitted for the petitioner; S. H. Babcock for The Colorado Midland Railway Company; Albert Vogl for the South Canon Coal Company; Guy Duncan for the Palisade Coal Company.

(July 24, 1915.)

By the Commission:

On the 14th day of June, 1915, The Colorado & Southern Railway Company, a Corporation, and one of the defendants in this cause, filed with this Commission its certain petition for a re-hearing of this case, in so far as the order of this Commission made and entered on May 10, 1915, established the following joint through rates, in cents per ton, for the transportation of slack and lump coal, carloads:

	From South Canon District		From Palisade District	
To—	Lump	Slack	Lump	Slack
Denver	160	140	185	150

The Commission, after giving due notice to the petitioner, heard the oral arguments of counsel in support of the petition and against the same, on the 13th day of July, 1915. At this time the petitioner presented written statements prepared by the operating coal companies of Southern Colorado in support of the petition of the petitioner, The Colorado & Southern Railway Company.

The argument of counsel for the petitioner was based mainly on three propositions:

1. That the Commission had made a joint through rate on coal from the South Canon and Palisade Districts to Denver over the line of The Colorado Midland Railway Company to Colorado Springs, and thence to Denver over the line of the peti-

tioner, or The Atchison, Topeka & Santa Fe Railway Company, on the basis of the existing rates between the Trinidad and Walsenburg Districts and Denver, over the line of the petitioner, or The Atchison, Topeka & Santa Fe Railway Company; though the actual mileage from the South Canon District to Denver was shown to be 291 miles, and from the Palisade District to Denver, 358 miles; while the actual mileage from the Walsenburg District to Denver on the line of the petitioner was shown to be 185 miles, and the distance from Trinidad to Denver, upon the line of the petitioner, was shown to be 213 miles.

2. That the order of the Commission was based solely on competitive conditions and without regard to the cost of hauling the commodity.

3. That the order of the Commission is discriminatory as against the coal mines of Southern Colorado, as well as the petitioner, The Colorado & Southern Railway Company.

At a hearing of the above cause, Mr. S. H. Babcock, General Agent for the Receiver of The Colorado Midland Railway Company, testified in behalf of The Colorado Midland Railway Company, one of the defendants in this cause, and qualified before the Commission as a railroad man of fifty years' experience, and stated that during that period he had become thoroughly familiar with the basis of rate-making and the cost of operating a railroad.

Mr. Babcock requested the Commission to establish the joint through rate on coal from the South Canon District to Denver on the same basis with that of the Walsenburg District to Denver, and the Palisade District to Denver on the same basis as that of the Trinidad District to Denver.

Mr. Babcock further testified that coal was the principal source of possible tonnage to the Midland Railway Company at this time.

This witness was asked, upon examination, whether it was the practice of railroads, in an effort to get into competitive markets, to absorb to themselves the differential of mileage. Answering this question, the witness stated that it was the universal practice of railroads in the country. That the short line made the rate into competitive territory and the longer line was privileged to meet the rate as made by the short line, and it was his opinion, if the railroads did not follow this procedure, they would have difficulty in meeting charges or paying dividends. He illustrated his remark with the rate from Hanna, Wyoming, to Denver, over the Union Pacific, which was reduced by the Union Pacific Railroad to meet the Trinidad-Denver rate, although the distance from Hanna to Denver was 241 miles, as against 213 miles, the distance from Trinidad to Denver.

Mr. Babcock also testified that railroad freight rates are made quite generally through competitive conditions of some character and that very few roads, if any, are free to make rates based on the actual merits of the service and haul.

He further stated that the proposed rate, in his estimation, as a representative of The Midland Railway Company, would greatly increase the tonnage revenue of his company, and that the Railroad he represented stood ready to assume the disabilities of the haul and rate, and that while he realized the proposed rate would not be highly remunerative, or even fairly remunerative to the Midland Railway Company, yet he felt assured of a profit on the haul of the commodity, although the carrier participating in the joint rate be granted a reasonable profit for transporting this commodity from Colorado Springs to Denver.

Mr. Babcock further testified that he had carefully considered the proposed rate from every angle before recommending the same to the Commission, and felt that the future of the Midland Railway Company depended to a great extent upon the favorable action by the Commission, together with the development of the coal resources located on the line of the Midland Company.

Mr. H. A. Johnson, General Freight Agent of the petitioner, stated that he had occupied the official position of General Freight Agent of the petitioner for a period of sixteen years. Mr. Johnson testified from a carefully prepared statement written by him, as to the coal rates applicable in the State of Colorado; and while the facts contained therein were already known to the Commission, yet his statement was, indeed, significant. The following extracts are quotations from the testimony of Mr. Johnson in this cause:

> "There is no specific or defined basis for present coal rates. Numerous changes have been made from time to time owing to competition between producing districts, commercial conditions surrounding its production, competitive conditions under which it moves, and the varying costs in the different fields. These and other factors have brought about the present coal rates and have entirely wiped out any well-defined basis, if such originally existed.
>
> The adjustment of coal rates was an important factor in the development of the coal fields of Southern Colorado. It was first necessary to reach the more important markets on the west of the Missouri River, as well as southern points far distant, such as Fort Worth and Dallas, Texas, etc. This made necessary the establishment of

rates to these far distant markets which in and of themselves could not be considered remunerative.

It will be seen from this that the establishment of rates from Walsenburg, for example, to points in eastern Colorado was controlled by the interstate rates to points beyond, and that such rates were fixed without regard to their remuneration.

When the Denver & Salt Lake Railroad was extended to the coal fields of Routt County, the coal operators, and undoubtedly officials of the road, believed it necessary to make the same rate to Denver as applied from Walsenburg. The coals were very similar in character. Some of the operators who first opened mines in Routt County had been operating mines in Walsenburg District and very naturally demanded Walsenburg rates. The relationship, therefore, between Walsenburg and Routt County rates to Denver was arbitrarily made, and, as stated above, without due regard to the necessities of the carrier."

We have here the offer of the Midland Railway Company to give the coal mines upon its own lines of railroad the privilege of a competitive market, and assuming the disabilities of the longer haul. In other words, The Colorado Midland Railway Company, through its representative, Mr. Babcock, offers to the participating carriers on the joint through rate as established by the Commission, that part of the joint through rate which will give the participating carriers a fair return for the haul of this commodity from Colorado Springs to Denver, so that The Colorado Midland Railway Company must assume the entire disadvantage of the longer haul. Had the line of the Midland Railway Company extended into the City of Denver, the railroad would without doubt be permitted to meet the short line rate without consent of this Commission, unless the Commission should determine that the rate so established would result in a loss to the Midland Railway Company, and, therefore, become a burden upon the transportation of other commodities by the railroad and resulting in rates unreasonable for the hauling of those commodities. The Commission is compelled to accept the evidence of Mr. Babcock, that the rate established is remunerative to the Midland Railway Company, even though the said company assume the disability of the longer haul and allow to the participating carriers a fair return for the transporting of said commodity upon their lines. It is significant that The Atchison, Topeka & Santa Fe Railway Company, although a participating carrier in the rate, has not petitioned the Commission for a rehearing of the cause, and while The Colorado & Southern Railway Company, the petitioner, assumes that its division of this through joint rate will not afford it a fair compensation for the hauling of the commod-

ity from Colorado Springs to Denver, such is not the case because no division of the rate has been ordered by the Commission.

In the decision of the Commission in the above cause made and entered on May 10, 1915, the following statement was made:

> "The Commission will not attempt to establish the division of rates between any two or more carriers, unless the carriers fail to agree among themselves."

The position of the Commission should be apparent to The Colorado & Southern Railway Company, the petitioner. If it should now appear that the petitioner and The Colorado Midland Railway Company are unable to agree upon a division of the joint through rate established by this Commission, to the end that The Colorado & Southern Railway Company, the petitioner, shall receive a compensatory rate for the haul of this commodity from Colorado Springs to Denver, the petitioner may file its petition for a fair and reasonable division of this joint through rate, at which time the Commission will give due consideration to the claims of The Colorado & Southern Railway Company.

Unless the Commission is ready to take the position that the representative of The Midland Railway Company was mistaken in his assertion that The Colorado Midland Railway Company could profitably transport coal from the coal mines located on its line of road for that proportion of the established rate of this Commission, which would leave to the participating carrier a reasonable and fair rate for the hauling of this commodity from Colorado Springs to Denver, it is the duty of this Commission to make the rate requested, and as we do not feel in a position to doubt Mr. Babcock's judgment in this behalf, the petition of the petitioner is denied.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners

Dated at Denver, Colorado, this 24th day of July, 1915.

In Re: EASTERN COLORADO COAL RATES.

(Case No. 10.)

Amended order in Case No. 10, decided May 10, 1915, in respect to rates to points on the Atchison, Topeka & Santa Fe Railway and the Missouri Pacific Railway.

(July 27, 1915.)

By the Commission:

AMENDED ORDER.

Whereas, On Friday, July 23, 1915, the Public Utilities Commission of the State of Colorado issued its certain order to The Atchison, Topeka & Santa Fe Railway Company, The Missouri Pacific Railway Company, and The Denver & Rio Grande Railroad Company, directing the said defendants in the above cause to appear at the Hearing Room of the Commission on Saturday, July 24, 1915, at 10:00 o'clock a. m., to show cause why the Commission should not alter or amend Paragraphs 4-a and 4-e of the order made by this Commission under date of May 10, 1915, in said Case No. 10; and,

Whereas, The said defendants received due notice of said hearing, and appeared, and made no objection to the proposed alteration or amendment by the Commission of its said order made and entered in the above cause on May 10, 1915;

It Is Now Ordered, That Paragraphs 4-a and 4-e of the order made and entered by this Commission in Case No. 10 on the 10th day of May, 1915, be altered and amended as follows:

(4-a) It Is Further Ordered, That The Atchison, Topeka & Santa Fe Railway Company be, and it is hereby, ordered to establish and put in force the following local rates from the Canon City, Pikeview and Trinidad districts; and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from the Walsenburg district; and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway

Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to maintain the same differentials from mines in the Trinidad district not located on The Atchison, Topeka & Santa Fe Railway, over the Trinidad rates as are at present in effect to the points specified in sub-section 4a of this order. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination, and shall be considered as maxima on all classes of coal:

To	From Canon City District	From Pikeview District	From Trinidad District	From Walsenburg District
Pueblo	100	100	...	...
Baxter	125	125	175	...
Nyburg	130	130	175	...
Boone	130	130	170	...
Nepesta	140	140	165	...
Fowler	150	150	150	180
Manzanola	150	150	150	180
Wietzer	155	155	150	180
Rocky Ford	155	155	150	180
Swink	160	160	140	170
La Junta	160	160	140	170
Casa	165	165	145	175
Las Animas	180	180	160	190
Caddoa	195	195	175	205
Prowers	205	205	185	215
Lamar	210	210	190	220
Koen	215	215	195	225
Granada	220	220	200	230
Amity	225	225	205	235
Holly	230	230	210	240
Shelton	160	160	140	170
Cheraw	165	165	145	175
Rixey	185	185	165	195
McClave	205	205	185	215
Big Bend	210	210	190	220
Karl	215	215	195	225
Bristol	220	220	200	230
Delite	230	230	210	240

To	From Trinidad District
Hoehnes	55
Earl	65
Poso	70

Tyrone	75
Thatcher	85
Delhi	95
Timpas	115
Ormega	130

(4-e) It Is Further Ordered, That The Missouri Pacific Railway Company and The Denver & Rio Grande Railroad Company be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Bowie district; and The Missouri Pacific Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg district; and The Missouri Pacific Railway Company, The Atchison, Topeka & Santa Fe Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from the Canon City district which shall be the same as the rates from the Walsenburg district; and The Missouri Pacific Railway Company and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish rates from mines in the Pikeview district which shall be the same as the rates from the Walsenburg district; and The Missouri Pacific Railway Company, and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad district which shall be 25 cents higher than the rates from the Walsenburg district. All of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination, and shall be considered as maxima on all classes of coal:

To	From Bowie District	From Walsenburg District
Baxter	335	125
Nyburg	340	130
Boone	350	130
Nepesta	335	140
Olney Springs	370	155
Ordway	385	160
Sugar City	390	165
Lolita	395	170
Kilburn	405	180

Arlington	410	185
Haswell	425	200
Milan	430	205
Galatea	435	210
Eads	450	225
Chivington	465	245
Brandon	475	255
Sheridan Lake	475	260
Stuart	485	270
Towner	495	280

The rates as specified in the original order of May 10, 1915, from the Roswell District to points on The Missouri Pacific Railway, in connection with The Chicago, Rock Island & Pacific Railway (H. U. Mudge and Jacob M. Dickinson, Receivers), will remain as set forth in the original order, and, for convenience, are hereinafter shown, as follows:

To	From Roswell District
Baxter	115
Nyburg	120
Boone	125
Nepesta	125
Olney Springs	130
Ordway	135
Sugar City	140
Lolita	145
Kilburn	155
Arlington	160
Haswell	175
Milan	180
Galatea	185
Eads	200
Chivington	220
Brandon	230
Sheridan Lake	235
Stuart	245
Towner	255

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 27th day of July, 1915.

THE CITY OF CANON CITY

v.

THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, THE CANON CITY & CRIPPLE CREEK RAILROAD COMPANY.

THE CITY OF FLORENCE, Intervenor.

(R. R. Comm. Case No. 52.)

(August 9, 1915.)

By the Commission:

Whereas, On the 1st day of July, 1915, the Commission issued its certain order, directed to the Complainant and Intervenor in Case No. 52, to show cause, within thirty days from the date of said order to show cause, why this Commission should not recognize the dissolution of The Florence & Cripple Creek Railroad Company, the Defendant in this cause; and,

Whereas, The Complainant and Intervenor made no showing to this Commission in accordance with its order of July 1, 1915; and,

Whereas, It appears to the Commission that the dissolution of the Defendant, The Florence & Cripple Creek Railroad Company, was in accordance with the laws of the State of Colorado.

It Is Ordered, That the files in Case No. 52 before this Commission be closed.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 9th day of August, 1915.

CASTLE ROCK MOUNTAIN RAILWAY & PARK

v.

THE DENVER TRAMWAY COMPANY, THE SEEING DENVER COMPANY, THE DENVER OMNIBUS & CAB COMPANY, THE DENVER UNION TERMINAL RAILWAY COMPANY.

(Case No. 29.)

Commissions—Jurisdiction—Restraint of Trade.

The Commission has no jurisdiction to entertain a petition alleging violations of the laws prohibiting unfair competitions and illegal combinations in restraint of trade.

(August 9, 1915.)

PETITION alleging violations of the law prohibiting unfair competition and illegal combinations in restraint of trade; dismissed, with leave to amend the complaint within five days to base the cause of action solely on the alleged discrimination in the rates, practice and service of the defendant The Denver Tramway Company, in favor of the defendant The Seeing Denver Company, and ordering that the demurrers of the defendants directed against all other matters contained in the petition be sustained, and that the defendant The Denver Tramway Company answer the amended petition within five days after it is filed with the Commission.

APPEARANCES: Charles F. Quaintance for petitioner; Gerald Hughes and Howard Robertson for The Denver Tramway Company, defendant; C. C. Dorsey and E. I. Thayer for The Denver Union Terminal Railway Company, defendant; J. H. Kuykendall for The Denver Omnibus & Cab Company, defendant; Robert E. Harvey for The Seeing Denver Company, defendant.

By the Commission:

On the 15th day of July, 1915, the Petitioner filed with this Commission a petition entitled "Petition in re unfair competition and illegal combination or confederacy in restraint of trade," the said petition being directed against the defendant public utilities, to-wit: The Denver Tramway Company, The

Seeing Denver Company, The Denver Omnibus & Cab Company, and The Denver Union Terminal Railway Company.

The Petitioner alleges that it is a scenic incline railroad company, owned and operated by Charles F. Quaintance, and petitions in its behalf, and on behalf of "thirty-six scenic trips out of Denver," and alleges "that the defendants, and each and all of them, have formed and are a part of an illegal combination or confederacy in restraint of trade and fair competition for the purpose of controlling the tourist business, to the end that no scenic trips, except those operated by Defendant, The Seeing Denver Company, shall be taken by tourists."

The Petitioner further complains that the Defendant, The Denver Omnibus & Cab Company, has been granted the exclusive privilege of soliciting business from incoming passengers at the Union Depot, the property of The Denver Union Terminal Railway Company, one of the Defendants.

The Petitioner further alleges that The Denver Omnibus & Cab Company owns and controls a large amount of the capital stock of the Defendant, The Seeing Denver Company, and grants to the said The Seeing Denver Company privileges not open to this Complainant and to which said Complainant is entitled; and that the Defendant, The Denver Tramway Company, permits The Seeing Denver Company to use the tracks of the Defendant, The Denver Tramway Company, exclusively, and maintains a discriminatory rate for special cars for the benefit of The Seeing Denver Company; the said rate not being open to this Petitioner, or others similarly situated; and the Petitioner prays that this Commission afford a remedy as against the alleged illegal combination in restraint of trade, and that the Plaintiff be given the same rights, rates, service, equipment, and privileges by the Defendant, The Denver Tramway Company, The Denver Omnibus & Cab Company, and The Denver Union Terminal Railway Company, as are now open to the Defendant, The Seeing Denver Company.

On July 25, 1915, the Defendants filed petitions with this Commission for leave to demur to the complaint of the Petitioner, and this privilege was granted by the Commission; whereupon, on July 28, 1915, the Defendants demurred to the petition of the Petitioner, alleging that this Commission had no jurisdiction as to the subject-matter of this action.

On the 30th day of July, 1915, the Commission heard arguments, in support of and against the demurrers filed to the petition of the Petitioner.

The Petitioner, in its objection to the exclusive right to solicit incoming passengers, granted by The Denver Union Terminal Railway Company to The Denver Omnibus & Cab Company, does not complain as to the adequacy of the service of The

Denver Omnibus & Cab Company, nor does the Petitioner seek for itself an equal right to solicit passengers at the station of The Union Terminal Railway Company, so that it is unnecessary for us, at this time, to pass on the question as to whether it is within the jurisdiction of this Commission to order The Denver Union Terminal Railway Company to permit other persons and corporations the privilege of soliciting passengers at the station of The Denver Union Terminal Railway Company.

The complaint of Petitioner complains of an illegal combination in restraint of trade. The Public Utilities Commission is not a court, but is a creature of the Legislature, with defined powers, and our jurisdiction does not extend to complaints against illegal combinations in restraint of trade. The doors of the Courts of the State of Colorado are open to the Plaintiff in the event it has a cause of action in this regard.

The Commission, having carefully considered the petition of the Petitioner and the demurrers filed by the several Defendants, now orders:

First—That the petition of the Petitioner be dismissed as to The Denver Union Terminal Railway Company, The Denver Omnibus & Cab Company, and The Seeing Denver Company, Defendants.

Second—That the Petitioner amend its complaint within five (5) days from the date of this order, and base its cause of action solely on the alleged discrimination in the rates, practices and service of the Defendant, The Denver Tramway Company, in favor of the Defendant, The Seeing Denver Company, and that the demurrers of the Defendants directed against all other matters contained in the petition of the Petitioner be sustained.

It Is Further Ordered, That the Defendant, The Denver Tramway Company, answer the amended petition of the Petitioner within five (5) days after the same is filed with this Commission.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 9th day of August, 1915.

ERNEST A. COLBURN

v.

THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY.

(Case No. 21.)

(1) *Evidence—Presumption—Rate voluntarily established—Discrimination against short haul.*

It will be assumed that a commodity rate voluntarily established is not so low as to deprive the carrier of a fair return, in a proceeding attacking, as discriminatory, the same charge for transporting the commodity a shorter distance, so that the Commission, in finding the rate is discriminatory, will order a reduction for the short haul rather than an increase for the long haul.

(2) *Discrimination—Rates—Long and short haul—Mountainous territory.*

The same commodity rate for a short haul as for a long haul was held discriminatory, although the mountainous character of the short-haul territory relatively increased the cost of such service, where such additional cost was less than the difference in rates that should exist between the long and short haul.

(August 19, 1915.)

COMPLAINT that rates for hauling ores from mines in the Cripple Creek District to a mill in said district, as compared to rates on the same class of ores to mills located at Colorado City, were discriminatory; upheld and defendant ordered to put into effect rates removing the discrimination.

APPEARANCES: N. Walter Dixon for petitioner; Ralph Hartzell for defendant.

By the Commission:

On June 1, 1915, the Complainant herein filed a complaint with the Commission, the principal allegation of which, and, in fact, the only one relevant, in the issues as made up, in this case, was the discriminatory rates charged for hauling ores from the various mines of the Cripple Creek District to the mill of the Complainant, which is also located in the Cripple Creek District, as compared to the rates charged on the same class of ores to the mills located at Colorado City.

The Defendant made answer thereto admitting that the rates on ores from the Cripple Creek District to the Complainant's mill were identical with the rates charged to Colorado City on all ores having a greater value than $20.00 per ton, but that the Complainant enjoys a less rate than is maintained to Colorado City on all ores having a value of less than $20.00 a ton; admits that the distance from the mines in the Cripple Creek District to the mills at Colorado City is greater than to the mill of Complainant. Avers that the Complainant's mill is situated on one of the highest points in the Cripple Creek District, and, for this reason, as well as sidetrack and storage facilities at Complainant's mill, heavy grades encountered in reaching Complainant's property, and the general conditions surrounding operation of the railroad property to the plant of Complainant are such that it is possible to deliver only a few cars at a time; that in consequence of these conditions the cost of haulage and delivery is much greater in proportion than the cost of haulage and delivery of freight to other mills farther from the producing mines.

Avers that the system of computing rates in proportion to the value of ores is just and equitable, which system applies to Complainant as well as to the mills at Colorado City, and that the present rate afforded to the Complainant, on ores of $5.00 per ton or less in value, is not sufficiently remunerative to pay the Defendant the actual cost of making delivery to the Complainant's mill; further avers that the Complainant has not been and cannot be damaged by reason of said rates because of the fact that such rates are paid by the producer, or owner of the mine, and not by the Complainant, and prays to have the complaint dismissed.

After due notice to the parties the Commission set the case down for hearing at its Hearing Room in the Capitol Building at Denver, on the 30th day of June, 1915, and testimony was taken; the Complainant being represented by his attorney, N. Walter Dixon, Esquire, and Defendant by its attorney, Ralph Hartzell, Esquire.

Owing to the fact that the Defendant, The Florence & Cripple Creek Railroad Company, had dissolved its corporate existence after the commencement of this cause, and the property in question being operated by The Cripple Creek & Colorado Springs Railroad Company, the Complainant asked leave to amend his complaint to show The Cripple Creek & Colorado Springs Railroad Company to be the Defendant in this case. No objections being made by the parties in interest, the request was granted by the Commission.

The taking of testimony having been completed, the cause was set down for argument, and, on August 17, 1915, the attorneys for the interested parties appeared and made oral argument be-

fore the Commission. Prior to that time, and subsequent to the taking of testimony, the Commission made a personal inspection of the operating conditions in the Cripple Creek District.

It appears from the record that the Defendant, The Cripple Creek & Colorado Springs Railroad Company, is charging, demanding and collecting the following rates on ore from the Cripple Creek District to points as shown below:

Rates on Ore, Carloads, in Cents per Ton, Between Cripple Creek District and

Valuation to	Cripple Creek District.	Colorado City.
$ 5.00 per ton	$ .50	....
$20.00 per ton	.75	$1.00
$25.00 per ton	1.25	1.25
$30.00 per ton	1.50	1.50
$40.00 per ton	2.00	2.00
Over $40.00 per ton	2.50	2.50

And that the distance from Cripple Creek District to Colorado City is approximately 45 miles, and the distance from the mines in the District to Complainant's mill varies from 5½ to 11 miles. While there is considerable difference in the mileage there is also, of necessity, considerable difference in the method of operation as between cars destined to Complainant's mill and the mills at Colorado City. Cars destined to Colorado City are assembled at a convenient point and sent out of the District in train lots, while cars destined to Complainant's mill are handled singly or in small lots, and moved entirely by switching crews.

The evidence, which is corroborated by personal inspection made by the Commission, shows that switching operations in this District are attended by considerable hazard and heavy expense, occasioned by the mountainous character of the territory, with switch-backs, severe curves, circuitous routes and heavy grades, with the result that a very limited amount of tonnage can be handled with one engine. Mr. Cogan, Superintendent of the Defendant company, submitted a detailed statement showing the average cost of switching freight in the District to be 72 cents per ton. The same witness testified that while he believed the switching service could be performed at a cost slightly less than the cost of transporting a shipment to Colorado City, nevertheless it was more satisfactory and less trouble to perform the road service. He also testified that it was his opinion, based on the cost of the service, that there should be a slight differential between the rates in favor of the mills in the Cripple Creek District.

The Complainant in this case is not attacking the rates to Colorado City; on the contrary he indicated that the Colorado

City rates were fair and reasonable, while the Defendant maintains that the rates to that point are too low and should be advanced. (1) In view of the fact that the rates to Colorado City were voluntarily established by the Defendant, without action on the part of this Commission, the Commission will take the position that the rates to that point are not so low as to deprive the Defendant of a fair return for the service rendered.

(2) The record in this case discloses the fact that there is little actual difference in the cost of the service rendered by the Defendant company as between shipments from the Cripple Creek District destined to the Complainant's mill, and shipments from the same District to the mills at Colorado City. However, there is some difference, which is favorable to the contention of the Complainant, and witnesses for the Defendant admit that there should be a differential in the rates in favor of the mills in the District, based on the relative cost of the service performed. The Commission is inclined to this view, and an order will be entered in accordance therewith.

The Commission finds that the rates on ore, as set forth in the order, are just and reasonable, and all rates now charged by the Defendant in excess of those set forth in the order are unjust and unreasonable.

ORDER.

It Is Hereby Ordered, That the Defendant, The Cripple Creek & Colorado Springs Railroad Company, be, and is hereby, ordered to cease and desist from charging, collecting or demanding their present published rates on ore of greater value than $20.00 per ton, from mines in the Cripple Creek District to the mills in said District; and the said Defendant is further ordered to publish, in lieu thereof, rates from the various mines in the Cripple Creek District, to mills in said District, which shall be twenty-five (25) cents per ton lower than the rates charged, demanded and collected, on the various grades of ore, by the Defendant carrier from the Cripple Creek District to the mills at Colorado City.

This order shall become effective on or before September 19, 1915.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 19th day of August, 1915.

THE GRAND VALLEY FRUIT FREIGHT RATE ASSOCIATION

v.

THE DENVER & RIO GRANDE RAILROAD COMPANY, THE COLORADO MIDLAND RAILWAY COMPANY, G. W. Vallery, Receiver; THE COLORADO & SOUTHERN RAILWAY COMPANY, THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, H. U. Mudge & J. M. Dickinson, Receivers; UNION PACIFIC RAILROAD COMPANY, THE CRIPPLE CREEK & COLORADO SPRINGS RAILROAD COMPANY, THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, THE MISSOURI PACIFIC RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.

MONTROSE AND DELTA COUNTIES FREIGHT RATE ASSOCIATION, Intervenor.

(Case No. 18.)

(1) *Rates—Railroads—Reasonableness—Blanket.*

All fruit shipping points on the Western Slope being blanketed as one originating group in rates to Colorado Common points and east thereof, the Commission finds such basis reasonable and does not disturb same.

(2) *Rates—Railroads—Reasonableness—Market Conditions.*

The high cost of production to a shipper does not of itself determine the reasonableness of a rate, and the adequacy of the revenue derived by the carrier for the service performed must take precedence over market conditions affecting the commodity transported.

(3) *Rates—Railroads—Reasonableness—Commodities.*

Rates on bulk apples at somewhat less than rate on apples in packages would be more detrimental than helpful to shippers, although Commission holds that special rates should be applicable to wind-fall, cull, refuse and waste apples, and so orders, until such time as carriers may make a conclusive showing as to the unfeasibility of such rates.

(4) *Rates—Railroads—Reasonableness—Value of Service.*

Rates on fruit should be sufficiently remunerative to properly provide for elements such as risk in handling, prompt delivery, efficiency of service, etc.

(August 20, 1915.)

COMPLAINT against rates on fruit from points in western Colorado to Colorado common points and points beyond in eastern Colorado; rates to common points found reasonable; certain rates to points in eastern Colorado found unreasonable and reasonable rates prescribed.

APPEARANCES: Griffith, Watson & Smith for the petitioner; E. N. Clark, J. G. McMurry and Fred Wild, Jr., for The Denver & Rio Grande Railroad Company; Henry T. Rogers, George A. H. Fraser and L. A. Rafert for The Colorado Midland Railway Company; E. E. Whitted and George Williams for The Colorado & Southern Railway Company; Henry T. Rogers and George A. H. Fraser for The Atchison, Topeka & Santa Fe Railway Company; C. C. Dorsey, E. I. Thayer and F. B. Choate for the Union Pacific Railroad Company; E. E. Whitted for The Chicago, Burlington & Quincy Railroad Company; Merle T. Vincent, C. J. Moynihan and Mortimer Stone for the intervenor.

Complainant and Intervenor herein are voluntary associations composed of residents of Mesa, Delta and Montrose Counties, Colorado. The complaint and petition in intervention allege that the rates for the transportation of apples, green fruit and pears from Colorado Western Slope originating points, to Colorado common points, and points beyond to the Colorado state line, are unreasonable and discriminatory; that the minimum carload weight is 20,000 pounds to Colorado common points, and 24,000 pounds to points beyond; that to destinations beyond Colorado common points and to the state line, the basis of the alleged discriminatory and unreasonable rates is the lesser of the Grand Valley rates to the Colorado common points, plus the local rates to points of destination, and the Missouri River rate from the Grand Valley; that certain of the defendants have adopted a rule or practice of an additional refrigeration charge on shipments consigned to one point and then reconsigned to another, regardless of whether such fruit is re-iced; that the rates on apples, green fruit and pears from shipping points on the Western Slope to Colorado common points, and points beyond to the state line, are unreasonable and discriminatory.

The several defendants, answering the complaint and petition in intervention, deny that the alleged unreasonable rates were in fact unreasonable and discriminatory, and, on the 19th day of June, 1915, this cause came on for hearing before the Commission at Grand Junction, Colorado, at which time and place the Plaintiff and Intervenor presented their case. The hearing was then continued, upon request of the Defendants, without objection from the Plaintiff or Intervenor, until the 7th day of July,

1915, at which time the Defendants presented their evidence to the Commission at its Hearing Room in the Capitol Building in the City and County of Denver, Colorado.

Exhaustive briefs were filed by the Plaintiff and Intervenor and the Defendants, all of which have been carefully studied by the Commission. We have studiously examined the record in this cause, including the testimony of the twenty-five witnesses presenting evidence to the Commission, and are confronted with a complicated problem.

The Defendant, The Denver & Rio Grande Railroad Company, and the Defendant, The Colorado Midland Railway Company, have a blanket rate on apples, green fruit and pears from all shipping points on the Western Slope (the term "Western Slope" to include all shipping points on the lines of the Defendants in Montrose, Delta and Mesa Counties) to the Colorado common points, and the Defendant, The Denver & Rio Grande Railroad Company, has voluntarily included additional points on its line at the common-point rate, said rates being 45 cents per hundred pounds on apples, and 60 cents per hundred pounds on green fruit and pears; and, as to the rates on apples, green fruit and pears beyond Colorado common points, with the exceptions noted, the rates are the lesser of the combination over the common point and the rate to the Missouri River. The term "green fruit," when used in this order, shall consist of apricots, berries, cherries, currants, grapes, peaches, plums, pomegranates and prunes.

(1) As the Defendant, The Denver & Rio Grande Railroad Company, has arbitrarily blanketed all shipping points on the Western Slope, as well as the Colorado common-point destinations, together with the exceptions above noted, we shall not disturb this arbitrary basis. The Complainant and Intervenor certainly have no cause for complaint in this regard, and, as the defendants do not object, we shall not consider the question of originating common points and common points of destination.

The case of the Complainant and Intervenor was quite thoroughly presented to the Commission through the testimony of witness Kyle, representing the Montrose and Delta Counties' Freight Rate Association, the Intervenor, and witness Silcox, representing the Grand Valley Fruit Freight Rate Association. On behalf of the Complainant and Intervenor, fruit growers of the Western Slope testified as to the actual cost of the production of a box of apples and a box of peaches, and evidently much study and preparation had been given to this question by these witnesses. This testimony developed the cost of the production of a box of apples on the Western Slope to be about 81 cents, and the cost of production of a box of peaches to be about 38 cents. The purpose of this testimony was to demonstrate to the Com-

mission that the cost of production of a box of apples or peaches on the Western Slope was so high that, adding to it the freight rate to Colorado common points and beyond, no profit was left to the grower or shipper. Other witnesses endeavored to prove to this Commission that freight rates, coupled with the cost of production, were so excessive as to permit apples and green fruit from Western and Southern states to enter the competitive field at Denver and points beyond, within the State of Colorado, all to the detriment of the growers and shippers of the Western Slope. Some comparisons were made of rates on fruit from other communities, as well as comparisons of the rates on potatoes, livestock, vegetables and fruit from the Western Slope to Colorado common points and points beyond within the State of Colorado. Witnesses Silcox and Kyle, for the Complainant and Intervenor, requested this Commission to establish an orchard run bulk apple rate, and testified that during certain years the apple crop was exceedingly heavy throughout the country, and, due to the high cost of production on the Western Slope, together with the freight rates, the grower or shipper was unable to box his apples, and that the said grower should have the privilege of shipping apples in bulk at a low rate, and thus partially overcome the disadvantage of a heavy crop. Particular stress was laid upon the fact that the grower or shipper is unable to ship imperfect apples, such as wormy apples, or those imperfect because of hail or other damage, on a rate less than the present boxed-apple rate, and that therefore this tonnage was lost to the defendant companies, and this condition resulted in a total loss at times to the grower or shipper.

The Defendants presented testimony to the Commission defending the present rates on apples, green fruit and pears, and against the proposed bulk apple rate. Evidence was also introduced by the Defendants in the form of comparisons of rates on apples, green fruit and pears on other railroads operating under somewhat similar conditions.

Testimony was introduced into the record in regard to the cost of refrigeration and certain advances contemplated by the Defendants. This testimony is irrelevant to the issue, and will be considered by the Commission in its order on I. & S. No. 3.

Witnesses also testified as to the practice of some of the Defendants in the additional charge for icing, when such freight was destined to one point, and re-consigned to another without actual re-icing.

(2) We have carefully considered the evidence of the witnesses of the Complainant and Intervenor as to the cost of production of a box of apples and a box of peaches upon the Western Slope, and the shipping of the same to a competitive market, and while we have been impressed with the evidence of the high cost

of production, together with the overcrowded condition of the market in past years, and have given it due consideration, yet this evidence does not of itself determine the reasonableness or unreasonableness of the freight rate, as has been admitted in the brief of the Complainant and Intervenor, in which brief was cited:

> In re Transportation of Wool, Hides and Pelts, 23 I. C. C., 151 (156).
>
> Board of Railroad Commissioners of Kansas v. A., T. & S. F. Ry. Co., et al., 22 I. C. C., 407.

In fact, the great mass of the evidence in this case went to the point that the cost of production on the Western Slope was exceedingly high as compared to the low market price for the fruit so produced, but, nevertheless, we are forced to follow the doctrine stated by the Interstate Commerce Commission:

> "But we feel the real test of reasonableness or unreasonableness of the freight rate to be the adequacy of the revenue derived by the carrier for the service performed, and this must take precedence over market conditions affecting the commodity transported."
>
> Lindsay Bros. v. Pere Marquette R. R. Co., 25 I. C. C., 368.
>
> Ponchatoula Farmers' Association v. I. C. R. R. Co., 19 I. C. C., 513.
>
> Pulp and Paper Mfctrs.' Traffic Association v. C., M. & St. P. Ry. Co., et al., 27 I. C. C., 83 (94).

(3) We have also given much thought to the question of an orchard run bulk apple rate, and we are forced to the conclusion that the outcome is problematical and uncertain, and the ultimate effect of such a proposed rate would be far more detrimental than helpful to the Western Slope, and to the high grade of fruit now produced in that district. The witness Silcox, testifying in behalf of the Complainant, stated that the Western Slope needed a rate to take its imperfect apples to the market; that in the event of a hail storm, or, at times when, due to unforeseen conditions, the apples became wormy and unfit for boxing as fancy apples, there should be a low rate to carry this cheaper stuff to a market, and that it would assist the grower of the Western Slope, and would also develop tonnage for the defendant companies; and we are inclined toward that view.

We are of the opinion that a rate somewhat less than the 45-cent apple rate to Colorado common points should be established on apples known as wind-falls, culls, refuse and waste, and

that while there is some evidence in the record to the effect that such a rate would be abused, we feel that, with proper policing, the defendant carriers can govern it. It is the idea of this Commission that this rate should be established for imperfect apples and those unfit for boxing, so that the grower may be able to find a market for this stuff, rather than to allow the same to rot upon the ground without profit to himself or to the defendant carriers, and to this end we shall order the establishment of a bulk apple rate until such time as the carriers may make a conclusive showing to this Commission that this rate and practice is not feasible.

The average haul from Western Slope producing points on the Denver & Rio Grande Railroad to Denver is 471 miles, and on the Colorado Midland Railway 344 miles. These hauls are made under the most adverse geographical disadvantages, and we are of the opinion that the existing rate of 45 cents per hundred pounds on apples, and 60 cents per hundred pounds on green fruit, from the Western Slope to Colorado common points, and those points arbitrarily named by the Defendant, The Denver & Rio Grande Railroad Company, at the common point basis, with the exception of Leadville and Salida, are reasonable rates; and, in fact, we are unable to find any rates on fruit, even though under more favorable conditions, as low as the rates now in effect between the above points. (4) The hauling of fruit by a railroad is surrounded by much hazard. Prompt and quick delivery of the fruit should be made and the service must be highly efficient. We are of the opinion that a lower rate will not give this service to the Western Slope, and therefore feel compelled to allow the present rates to Colorado common points to remain unchanged.

We are now confronted with the existing basis of rate-making on apples, green fruit and pears from the Grand Valley to destinations beyond common points within the State of Colorado. The basis of these rates is the lesser of the combination over the common points, and the rate from the Western Slope to the Missouri River. We are of the opinion that these rates are unreasonable.

We find from the evidence that it has been the custom of some shippers on the Western Slope to consign fruit to Pueblo, and re-bill the same as a new shipment in order to obtain the benefits of a jobber's rate. The Defendants have taken the view that where this is done they are entitled to an icing charge on the re-shipment, regardless of whether or not any re-icing is actually consummated. The new basis of rates from Pueblo to points beyond will be such that the jobber's rate will not be attractive to the shipper.

It further appears that the minimum loading weight of refrigerator cars from Western Slope to Colorado common points is 20,000 pounds, and to points beyond, within the State of Colorado,

is 24,000 pounds on green fruit and 25,000 pounds on apples. The Complainant and Intervenor have raised no objections to these minimums, and therefore they will be allowed to stand.

The Commission finds that the rates as now charged by the defendant carriers are unjust and unreasonable, in so far as they exceed the rates as prescribed in the order attached hereto and made a part of this opinion. The Commission further finds that the rates named in the order are just and reasonable, and will give the carriers a sufficient return for the services performed.

ORDER.

(1) It Is Ordered, That the Defendants, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting, or receiving their present rates for the transportation of apples, pears, and green fruit from Western Slope points to Leadville.

(1-a) It Is Further Ordered, That the Defendant, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force a rate of 35 cents per hundred pounds on apples, 50 cents per hundred pounds on pears with fifth-class rate as maximum, and 50 cents per hundred pounds on green fruit, for the transportation of such commodities from Western Slope points to Leadville.

(2) It Is Further Ordered, That the Defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, ordered to cease and desist from charging, demanding, collecting, or receiving its present rates for the transportation of apples, pears, and green fruit from Western Slope points to Salida.

(2-a) It Is Further Ordered, That the Defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, ordered to establish and put in force a rate of 40 cents per hundred pounds on apples, 55 cents per hundred pounds on pears with fifth-class rate as maximum, and 55 cents per hundred pounds on green fruit, for the transportation of such commodities from Western Slope points to Salida.

(3) It Is Further Ordered, That the Defendant, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, be, and it is hereby, ordered to establish and put in force a rate of 30 cents per hundred pounds for the transportation of apples, cull, wind-fall, refuse, and waste, from Western Slope points to Colorado Springs.

(4) It Is Further Ordered, That the Defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby,

ordered to establish and put in force a rate of 30 cents per hundred pounds for the transportation of apples, cull, wind-fall, refuse, and waste, from Western Slope points to Denver, Colorado Springs, Pueblo, Trinidad, and points intermediate therewith.

(5) It Is Further Ordered, That the Defendants, The Atchison, Topeka & Santa Fe Railway Company, Chicago, Burlington & Quincy Railroad Company, The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, Receivers; The Colorado & Southern Railway Company, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver; The Cripple Creek & Colorado Springs Railroad Company, The Denver & Rio Grande Railroad Company, The Florence & Cripple Creek Railroad Company, The Missouri Pacific Railway Company, and Union Pacific Railroad Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting, or receiving their present rates for the transportation of apples, pears, and green fruit from Western Slope points to points on the lines of The Atchison, Topeka & Santa Fe Railway Company, Chicago, Burlington & Quincy Railroad Company, The Chicago, Rock Island & Pacific Railway Company, The Cripple Creek & Colorado Springs Railroad Company, The Missouri Pacific Railway Company, and Union Pacific Railroad Company.

(5-a) It Is Further Ordered, That the Defendants, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, and The Atchison, Topeka & Santa Fe Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company, and The Atchison, Topeka & Santa Fe Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears, and green fruit, and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Devine	50	68	72
Nyburg	50	68	72
Avondale	50	69	73
Boone	50	69	73
Nepesta	50	72	75
Fowler	50	74	75
Manzanola	50	75	75
Wietzer	50	75	75
Rocky Ford	50	75	75
Swink	55	80	80
La Junta	55	80	80
Las Animas	55	80	80
Caddoa	55	80	80
Prowers	55	80	80

	Apples	Pears	Green Fruit
Lamar	55	80	80
Granada	55	80	80
Amity	55	80	80
Holly	55	80	80
Hartman	55	80	80
Bristol	55	80	80
Wiley	55	80	80
McClave	55	80	80
Rixey	55	80	80
Cheraw	55	80	80

(5-b) It Is Further Ordered, That the Defendants, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, The Denver & Rio Grande Railroad Company, and Chicago, Burlington & Quincy Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from the Western Slope points; and The Denver & Rio Grande Railroad Company and Chicago, Burlington & Quincy Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears, and green fruit, and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Hudson	50	72	75
Keenesburg	50	73	75
Roggen	50	75	75
Crest	50	75	75
Wiggins	55	77	80
Fort Morgan	55	78	80
Brush	55	80	80
Pinneo	55	80	80
Akron	55	80	80
Otis	55	80	80
Yuma	55	80	80
Eckley	55	80	80
Wray	55	80	80
Laird	55	80	80
Hill Rose	55	80	80
Union	55	80	80
Merino	55	80	80
Sterling	55	80	80
Haxtun	55	80	80
Holyoke	55	80	80
Amherst	55	80	80
Peetz	55	80	80

(5-c) It Is Further Ordered, That the Defendants, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, Receivers, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company, and The Chicago, Rock Island & Pacific Railway Company, H. U. Mudge and Jacob M. Dickinson, Receivers, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears, and green fruit, and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Falcon	50	70	71
Peyton	50	72	75
Calhan	50	74	75
Ramah	50	75	75
Simla	50	75	75
Matheson	55	76	80
Limon	55	78	80
Genoa	55	78	80
Bovina	55	80	80
Arriba	55	80	80
Flagler	55	80	80
Seibert	55	80	80
Vona	55	80	80
Stratton	55	80	80
Burlington	55	80	80

(5-d) It Is Further Ordered, That the Defendants, The Cripple Creek & Colorado Springs Railroad Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates on apples, pears, and green fruit, in cents per hundred pounds, from Western Slope points:

	Apples	Pears	Green Fruit
Cripple Creek	70	90	90

(5-e) It Is Further Ordered, That the Defendants, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, The Denver & Rio Grande Railroad Company, and The Missouri Pacific Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company and The Missouri Pacific Railway Company, be, and they are hereby, ordered to

establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears, and green fruit, and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Vineland	50	68	72
Nyburg	50	68	72
Avondale	50	69	73
Boone	50	69	73
Nepesta	50	72	75
Pultney	50	74	75
Fowler	50	75	75
Olney Springs	50	75	75
Ordway	50	75	75
Sugar City	50	75	75
Arlington	55	80	80
Haswell	55	80	80
Galatea	55	80	80
Eads	55	80	80
Brandon	55	80	80
Sheridan Lake	55	80	80
Towner	55	80	80

(5-f) It Is Furthered Ordered, That the Defendants, The Colorado Midland Railway Company, Geo. W. Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, The Denver & Rio Grande Railroad Company and Union Pacific Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company and Union Pacific Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears, and green fruit, and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Kersey	50	75	75
Kuner	55	76	80
Hardin	55	76	80
Masters	55	76	80
Orchard	55	77	80
Weldon	55	78	80
Fort Morgan	55	78	80
Snyder	55	80	80
Cooper	55	80	80
Union	55	80	80
Merino	55	80	80

	Apples	Pears	Green Fruit
Atwood	55	80	80
Sterling	55	80	80
Proctor	55	80	80
Iliff	55	80	80
Crook	55	80	80
Red Lion	55	80	80
Sedgwick	55	80	80
Ovid	55	80	80
Julesburg	55	80	80
Sandown	50	65	68
Watkins	50	69	75
Bennett	50	72	75
Strasburg	50	74	75
Byers	50	75	75
Deer Trail	50	75	75
Lowland	55	76	79
Agate	55	76	80
Godfrey	55	76	80
Cedar Point	55	77	80
River Bend	55	77	80
Limon	55	78	80
Bagdad	55	78	80
Hugo	55	80	80
Boyero	55	80	80
Kit Carson	55	80	80
Arena	55	80	80
Cheyenne Wells	55	80	80
Arapahoe	55	80	80
Chemung	55	80	80

(6) It Is Further Ordered, That the several Defendants as specified in this order, shall publish and make effective the rates herein set forth by this order on or before September 1, 1915.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 20th day of August, 1915.

In Re: PROTECTIONS AT GRADE CROSSINGS

of

THE DENVER & RIO GRANDE RAILROAD COMPANY

at

LEREAUX CREEK AND BARROW MESA.

(Case No. 32.)

(1) *Crossings—Grade—Protections—Adequacy.*

An electric safety gong was ordered installed where the evidence showed that the protection afforded at a grade crossing was insufficient.

(2) *Crossings—Grade—Relocation.*

A carrier was ordered to relocate at its own expense a grade crossing where such relocation would result in minimizing the dangers of said crossing.

(October 2, 1915.)

INVESTIGATION on the Commission's own motion as to the sufficiency of protections afforded at Lereaux Creek and Barrow Mesa on the Denver & Rio Grande Railroad; electric safety gong was ordered installed at the former point and relocation of crossing ordered at the latter point.

APPEARANCES: E. N. Clark, General Attorney, and J. Russell, General Manager, for the defendant.

By the Commission:

The Commission having received many informal complaints alleging that the defendant maintained two dangerous railroad crossings at Mile Post 396.8 and Mile Post 397.4, respectively, on its line of railroad, both crossings being located within the State of Colorado, D. S. Hooker, railroad engineer for the Commission, made an inspection of the said railroad crossings on the 31st day of July, 1915; and on the 17th day of August, 1915, filed his written report with this Commission declaring said crossings to be unsafe and inadequate.

On the 18th day of August, 1915, the Commission initiated a complaint against the defendant, The Denver & Rio Grande Railroad Company, and ordered the defendant to appear at the

Hearing Room of the Commission in Denver, Colorado, at the hour of 10:00 o'clock a. m., on the 10th day of September, 1915, before the Commissioners en banc, to make such showing as might be thought necessary by the said defendant.

E. N. Clark, General Attorney for the defendant, The Denver & Rio Grande Railroad Company, appeared for the defendant company and requested a continuance of said hearing for a period of not to exceed sixty (60) days, so that the defendant would be enabled to submit certain plans for the protection of the crossings complained against for the approval of the Commission. The continuance was granted.

On the 17th day of September, 1915, J. Russell, General Manager of the defendant railroad company, submitted to the Commission the proposed plans to make safe the dangerous crossings. These plans were thoroughly investigated by the engineer for the Commission, and on the 28th day of September, 1915, the Commission's engineer submitted to the Commission in writing a recommendation for the adoption of the plans as submitted by the defendant railroad.

We have carefully examined the plans, blueprints, and letter of transmittal of the defendant, The Denver & Rio Grande Railroad Company, and have made the same a part of the record in this cause.

We find upon an examination of the report of D. S. Hooker, the Commission's engineer, which has been made a part of the record in this cause, that the said crossings complained of are inadequate and unsafe. We also find that the plans submitted by the General Manager of The Denver & Rio Grande Railroad Company are practical and feasible. The defendant company has agreed to furnish the right of way required in accordance with the plans submitted and will do the grading and relocating of said crossing at its expense.

ORDER.

It Is Therefore Ordered, That the Defendant, The Denver & Rio Grande Railroad Company, shall install an electric gong at its railroad crossing at Mile Post 396.8 on its line of railroad and generally known as "Lereaux Creek Crossing," within thirty (30) days from the date of this order, and that the electric safety gong shall be of standard make and construction and shall be so installed as to sound a sufficient and continuous warning while the trains of the defendant are within one thousand (1,000) feet of said crossing; and the said gong shall be installed under the supervision and to the satisfaction of the railroad engineer of this Commission.

The railroad crossing on the line of the defendant located near Mile Post 397.4 and known as the "Barrow Mesa" railroad crossing shall be moved one hundred and sixty (160) feet west, in accordance with the blueprint plans filed by the defendant company with this Commission.

It Is Further Ordered, That the said company shall acquire the necessary rights of way, accomplish the necessary grading, and relocating at the expense of the defendant, and under the supervision and to the satisfaction of the railroad engineer of this Commission; and shall be completed within sixty (60) days from the date of this order.

M. H. AYLESWORTH,
(SEAL) S. S. KENDALL,
GEO. T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 2nd day of October, 1915.

CASTLE ROCK MOUNTAIN RAILWAY & PARK

v.

DENVER TRAMWAY COMPANY.

---

*(Case No. 29.)

(1) *Commissions—Jurisdiction of—Constitutional law—Police Power—Regulation of Rates and Service.*

The Commission has sole jurisdiction to regulate the rates and service of a street railway located in a city to the exclusion of the local authorities, although the city is governed under a special charter under the "Home Rule" amendment to the Constitution giving it power to control and to legislate in regard to the local, municipal and internal affairs, since such regulation arises through the police power of the State, is a matter of state-wide importance, and is in no sense a local, municipal or internal matter.

(2) *Carriers—Duties to public—Discrimination.*

The fact that the property of a carrier is devoted to public use on certain terms does not justify the requirement that it shall be devoted to other purposes or to the same use on other terms or the imposition of restrictions that are not reasonably concerned with the proper conducting of the business according to the undertaking which the carrier has expressly or impliedly assumed; thus, if it holds itself out as a carrier of passengers only, it cannot be compelled to carry freight, or as a carrier for hire it cannot be required to carry persons or goods gratuitously, but, as a corporation, the owner is subject to the obligations of its charter, and as the holder of special franchises is subject to the conditions upon which they were granted and must discharge the obligations which inhere in the nature of its business, must supply facilities that are reasonably adequate, must carry upon reasonable terms and must serve without unjust discrimination; these duties are public duties, and the State may prescribe rules and insure substantial equality of treatment in like cases.

(3) *Discrimination—Rates—Electric Railways—Public Service.*

A contract of an electric railway company to rent special cars at a specified rate to be operated over its road by a scenic railway for sightseeing purposes is not a private contract, but provides for public service, so that the Commission may regulate the rate to prevent discrimination against another scenic railway making a similar use of its cars.

(4) *Rates—Electric Railways—Volume of Traffic—Discrimination.*

While the large shipper or consumer should not have an advantage in rate over the small consumer on the basis of quantity alone, yet it does not result in unjust discrimination where the expense or difficulty

*Effective date postponed to March 1, 1916; petition for rehearing pending.

of performing the service justifies a difference in rates proportionate to the cost of service.

(5) *Discrimination—Rates—Electric railways.*

The Commission may order an electric railway to file a schedule of rates for the rental of special cars to prevent discrimination in rates between scenic railways renting the cars, although the order abrogates a contract whereby one of the lessees pays a less rental than the other.

(October 7, 1915.)

COMPLAINT by the Castle Rock Mountain Railway & Park that The Denver Tramway Company discriminates in its rates for rental of special cars in favor of The Seeing Denver Company; ordered that a schedule of rates be filed to eliminate the discrimination.

APPEARANCES: Charles F. Quaintance for the petitioner; Gerald Hughes and Howard Robertson for the defendant.

By the Commission:

The complaint of the plaintiff in this cause was originally directed against The Denver Tramway Company, a Corporation; The Seeing Denver Company, a Corporation; The Denver Omnibus & Cab Company, a Corporation; and The Denver Union Terminal Railway Company, a Corporation; and, upon the 9th day of August, 1915, the Commission ordered the said complaint dismissed as to all of the defendants excepting The Denver Tramway Company, the present defendant, and gave its reasons therefor. The plaintiff was directed to amend its complaint within five (5) days from date of that order and "base its cause of action solely on the alleged discrimination in the rates, practices and service of the defendant, The Denver Tramway Company, in favor of the defendant, The Seeing Denver Company." It was further ordered "that the defendant, The Denver Tramway Company, answer the petition of the petitioner within five (5) days after the same is filed with this Commission."

On the 13th day of August, 1915, the complainant filed its amended complaint with this Commission, alleging that the defendant was discriminating against the plaintiff, in that the said defendant made a different and lower rate for private cars, for a similar service, to The Seeing Denver Company, a Corporation, than to the complainant in this action; that the defendant permitted The Seeing Denver Company to use its cars for the purpose of collecting passengers and soliciting business and advertising along the streets of Denver, and permitted The Seeing Denver Company to stop said chartered cars at hotels along its line of railroad, and denied these privileges to the petitioner; that the defendant, The Denver Tramway Company, permitted its agents to sell tickets for the scenic trips of The Seeing Denver Company, and none other; that the defendant permitted The

Seeing Denver Company to hold cars at the foot of Seventeenth Street, in front of the Union Depot, covered with large signs advertising trips, for the purpose of securing tourists directly from trains, which practice is not open to the plaintiff; that the defendant offers to The Seeing Denver Company a private car specially equipped on a basis of a guarantee of $7.00, while the plaintiff must pay to the defendant the sum of $25.00 as a guarantee, for a similar use; that the defendant offers to The Seeing Denver Company a different and better car than is offered to the petitioner; and the petitioner prays that it and all others may be given the same rights, rates, service, equipment and privileges by the defendant, in all respects, as The Seeing Denver Company or any other competitor is given, and that the discrimination in favor of The Seeing Denver Company be abated; that the defendant corporation be required to serve the whole public alike and give no rights, rates, service, equipment and privileges which are denied to the petitioner and others similarly situated.

On the 25th day of August, 1915, the defendant filed with this Commission a demurrer and answer to the amended complaint of the petitioner, and, among other things, alleged that the Commission had no jurisdiction of the subject matter of this action: that the petitioner is attempting to have the Commission assist it in obtaining business; that the matters complained of in the petitioner's complaint relate wholly and exclusively to the management and operation of the petitioner's business and the management and operation of the business of the defendant, in its private, as distinguished from its character as a public common carrier; that the matters and things complained of do not relate to the transaction of the business of the defendant in its capacity as a common carrier of the public generally, but relate exclusively to the carrying on of the business of the petitioner: that the petitioner is endeavoring to compel the defendant to accord it privileges and rights to which the general public are not entitled, except at the acquiescence of the defendant and then only upon such terms as the defendant may see fit and proper to impose; that the property of the defendant, which the petitioner claims he is not entitled to use and enjoy, is of a private character; that the petitioner has filed its complaint for the purpose of regulating and supervising private contracts and arrangements between the defendant and other companies and corporations, which do not involve the rates or service to the traveling public, and that the Commission has no authority to declare a public policy or to supervise or regulate private contracts and arrangements between the defendant and other companies or corporations which do not involve service to the traveling public; that the defendant is operating a street railway within the City and County of Denver, and that the matters complained of are in connection with operation and management of

a street railway in the City and County of Denver, and not as a common carrier of the traveling public generally, and, if subject to regulation, that the power or authority thereof is vested in the local officers of the City and County of Denver. The defendant denies that it allows The Seeing Denver Company to use special cars all day long, or stand them in front of the Union Depot or run them up and down the streets all day long for the purpose of advertising and soliciting business; and denies that it carries on its cars advertising matter of The Seeing Denver Company in the most prominent places, and refuses to do so for the petitioner.

On September 2, 1915, at the Hearing Room of the Commission, in the City and County of Denver, this cause came up for hearing, at which time, and prior to the taking of any evidence, the Commission overruled that part of the answer or demurrer of the defendant which alleged that the Commission had no jurisdiction over the person of the defendant.

By constitutional amendment, the City of Denver has been consolidated with part of the County of Arapahoe and given the title of The City and County of Denver, and is permitted to operate under a charter which was adopted by the vote of the people of the City and County of Denver. By later amendment to the Constitution, all cities and towns within the State of Colorado having a population of two thousand inhabitants are given authority to make a charter which shall be the organic law of the city or town, and extend to all local and municipal matters, and the said constitutional amendment gives to the city and town all powers necessary, requisite or proper for the government and control of its municipal matters, including power to legislate upon, provide, regulate, conduct and control the same. Following which provision certain local or municipal matters are defined, and the amendment then states that

> "It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions, the full right of self government in both local and municipal matters, and the enumeration herein of certain powers shall not be construed to deny to such cities and towns and to the people thereof, any right or power essential or proper to the full exercise of such right."

This is popularly known as "home rule," and it is the position of this defendant, a public utility located within the City and County of Denver, which City and County operates under a charter, that it is not subject to the jurisdiction of the Public Utilities Commission of the State of Colorado, but is under the control of the local authorities within the City and County of Denver. **(1)** We cannot assent to this proposition. It has been

decided a number of times that the regulation of rates and service of a public utility, and rules, regulations and practices pertaining thereto, arises through the police power of the State, and is a matter of state-wide importance, and is in no sense a local, municipal or internal matter. If the position of the defendant in this regard was assented to by the Commission, any municipality within the State of Colorado with a population of two thousand inhabitants could regulate the rates and service of the public utilities operating within its boundaries, and the Public Utilities Law of the State of Colorado would become but an emasculated piece of legislation; and we refer the defendant to the case of Portland Railway, Light & Power Co. vs. City of Portland, reported at 210 Fed. Reporter, at page 667. In this case, a utility operating within the boundaries of the City of Portland, a "home rule" city operating under a charter, with power to control and to legislate in regard to its local, municipal and internal affairs, filed its schedule of rates with the State Public Service Commission of Oregon, and the City of Portland questioned the jurisdiction of the State Commission over the local utility, and the Honorable Judge Bean, in a very clear and able opinion, had the following to say:

> "Now, the right to regulate rates of public service corporations is a governmental power vested in the state in its sovereign capacity. It may be exercised by the state directly or through a commission appointed by it, or it may delegate such power to a municipality. But I do not understand that a municipality may assume to itself such power without the consent of the state where there is a general law on the subject emanating from the entire state. It is true that under the Oregon system the legal voters of every city or town are given power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the state. But this does not authorize the people of a city to amend its charter so as to confer upon the municipality powers beyond what are purely municipal or inconsistent with a general law of the state constitutionally enacted. Straw v. Harris et al., 54 Ore. 424, 103 Pac. 777, and Kiernan v. City of Portland et al., 57 Ore. 454, 111 Pac. 379, 112 Pac. 402, 37 L. R. A. (N. S.) 339. It was so held by the Supreme Court of the state in Riggs v. City of Grants Pass, 134 Pac. 776, where a city attempted to amend its charter so as to authorize its council to incur an indebtedness for the building of railroads. The regulation of fares to be charged by public service corporations is not primarily a municipal matter, but is a sovereign right belonging to the state in its sovereign capacity. All authority over the subject must emanate from the state. The effect of the amendment to the char-

ter of the city of Portland is an attempt to ignore the state authority and to assume sovereign rights superior and contrary to the expressed will of the state as manifested in its legislation. If the amendment is valid and takes the public utilities within the city of Portland out of the operation of the Public Utility Act and the jurisdiction of the commission created by it, then every municipality in the state may amend its charter with like effect, and the Public Utility Act will become a useless and emasculated piece of legislation, the will of the entire people as expressed therein be practically ignored, and the people of a part of the state become greater than the whole. The Public Utility Act was not only passed by the Legislature, but approved by a majority of the people on a referendum vote. It is therefore the expressed will of the sovereign power of the state concerning a subject over which it has jurisdiction, and it cannot be amended or abrogated by the people of a particular or given locality. The purpose was to provide a uniform system throughout the entire state for the control and regulation of public utilities and fixing the rates to be charged by them, and to create a tribunal for that purpose. It is true the Public Utility Act does recognize the authority of municipalities over public service corporations within its boundaries for certain purposes, but not in the matter of regulating or prescribing rates or fares. That power is vested alone in the Public Service Commission.

Now, Portland, or the people of Portland, are not without remedy if the rate charged by the plaintiff is unreasonable or unjust. They have a full and complete remedy by application to the tribunal created by the state for the purpose of determining such questions, and which is provided with the necessary machinery and expert assistants to deal with the subject intelligently. I take it, therefore, that the preliminary injunction should issue; the form thereof and the amount of the bond to be determined hereafter."

The Commission agrees with the above reasoning.

The defendant in this case is an electrical street railway, operating within the City and County of Denver, and between Denver and Golden, a municipality in Jefferson County. The petitioner operates a funicular railroad from the base of Castle Rock Mountain to the top thereof, the said railroad being in the vicinity of Golden. The evidence in this case is to the effect that the defendant company furnishes to The Seeing Denver Company private cars, operating on a schedule satisfactory to the defendant and The Seeing Denver Company, on a guarantee of $7.50, upon

the cars of the defendant, operating between Denver and Golden, and a guarantee of $3.50 on each Seeing Denver car operating within the City and County of Denver, on the line of the defendant. A certain amount of street soliciting of passengers is permitted by the defendant company, controlled by a schedule. The plaintiff is offered a rate of $25.00 for a private car from Denver to Golden, in accordance with the rate schedule of the defendant company now on file with this Commission; and it appears that the plaintiff company has chartered about twelve cars from the defendant company, for the summer of 1915, operating between Denver and Golden.

The evidence also shows that employees of the defendant company sell tickets entitling passengers to ride upon cars rented by The Seeing Denver Company from the defendant, and that The Seeing Denver Company pays to the defendant fifty per cent of all revenues received upon cars rented by the defendant to The Seeing Denver Company, over and above the minimum charges of $7.50 and $3.50, respectively.

There is a contract between the defendant company and The Seeing Denver Company, entered into on the 12th day of August, 1912, and expiring on the 31st day of October, 1913, with the right and privilege of one-year renewals for a period of four years, upon consent of both parties, and a supplemental contract entered into by the said parties on May 1, 1914, and expiring on October 31, 1915. The original contract and supplement provide for a certain number of cars to be leased during certain months of each year throughout the life of the contract, and for a certain number of trips each day upon the lines of the defendant, these cars to be operated on a schedule satisfactory to the defendant company. The defendant company equips the cars rented to The Seeing Denver Company, with a conductor and motorman, and the contract provides that these cars shall be under the control of the defendant company during their use by The Seeing Denver Company. It also appears from the evidence that the defendant company has certain cars constructed especially for sight-seeing service, and these cars are different from the ordinary tramway passenger cars.

The position of the defendant in this case is to the effect that the contract entered into by the defendant company with The Seeing Denver Company is a private contract and therefore is not a service furnished by the defendant company to The Seeing Denver Company, which is public in its nature, and the defendant then arrives at the deduction that this Commission has no control over the alleged private contract. This theory is presented to the Commission along the line of well-recognized court and commission decisions to the effect that a public utility is not subject to regulation in regard to any private business it may conduct, which is not in the nature of public duty. For instance, a public

utility may buy its stationery from whom it pleases, rent its offices from any desirable party, and conduct that part of its business as to which the public is not interested according to the policy of its directors and stockholders, and it has been many times stated that it is not the business of a regulating commission to designate or regulate the policy of any public utility in the conducting of its business. Many authorities have been briefed for the Commission, and the defendant company has endeavored to illustrate its position with a line of cases, holding that a terminal company or a railroad may contract exclusively with a cab company for the purpose of soliciting passengers from the depot of the terminal or railroad company, for the reason that the solicitation of the business of the passenger who has arrived at his destination is not a matter over which regulation should extend, but is in the nature of a private contract, and that the duty of the terminal or railroad company ceases as to that passenger and the public when the passenger arrives at his destination and alights from the train, with the exception, of course, that the cab company must give a service which is just and convenient to the public, and that simply because of the fact of the entering into of an exclusive contract, no discrimination thereby develops as against other cab companies. This reasoning has been followed by the Supreme Court of the State of Colorado, in the case of Union Depot & Railway Co. vs. Meeking, 42 Colo. 89, 94 Pac. 16; Donovan vs. Pennsylvania Company, 199 U. S. 279; Troy et al. vs. Lehigh Valley Railroad Company, N. Y. Public Service Commission Reports, 2nd District, July 8, 1908; Red Line Tourists' Agency vs. Southern Pacific Company et al., 3 Calif. R. R. Com. 526.

There is also a line of authorities which adopts the opposite view, that when a railroad company assumes to give an exclusive contract to one cab company to solicit business on the property of the railroad company, it unjustly discriminates as against other cab companies, and that when this privilege is given to one, it must be given to all. McConnell vs. Pedigo et al., 92 Ky. 465, 18 S. W. 15; Palmer Transfer Company vs. Anderson, 131 Ky. 217, 115 S. E. 182; Kalamazoo Hack & Bus Company vs. Sootsma, 84 Mich. 194, 47 N. W. 667; Steelman vs. C. & E. I. R. R. Co., Ind. Public Service Commission, April 23, 1915.

Our attention has been called to the case of The Northern Pacific Railway Company vs. North Dakota, ex rel. McCue, 236 U. S. 585, and particularly has our attention been called to the following:

> "But, broad as is the power of regulation, the State does not enjoy the freedom of an owner. The fact that the property is devoted to a public use on certain terms does not justify the requirement that it shall be devoted to other public purposes, or to the same use on other

terms, or the imposition of restrictions that are not reasonably concerned with the proper conducting of the business according to the undertaking which the carrier has expressly or impliedly assumed. If it has held itself out as a carrier of passengers only, it cannot be compelled to carry freight. As a carrier for hire, it cannot be required to carry persons or goods gratuitously."

(2) As to this view, we agree, but we also agree with the view expressed by the court on page 595 of this case:

"The general principles to be applied are not open to controversy. The railroad property is private property devoted to a public use. As a corporation, the owner is subject to the obligations of its charter. As the holder of special franchises, it is subject to the conditions upon which they were granted. Aside from specific requirements of this sort, the common carrier must discharge the obligations which inhere in the nature of its business. It must supply facilities that are reasonably adequate; it must carry upon reasonable terms; and it must serve without unjust discrimination. These duties are properly called public duties, and the State within the limits of its jurisdiction may enforce them. The State may prescribe rules and insure substantial equality of treatment in like cases, and to promote safety, good order and convenience."

The defendant tramway company carries passengers for hire within the City and County of Denver and the Counties of Adams, Arapahoe and Jefferson. On February 3, 1915, the defendant filed with this Commission its Passenger Tariff No. 1, and the schedule contains an enumeration of its fares to be charged for transportation, together with its rules and regulations. On page 21 of this schedule, we find the charges to be made for special cars and trains, and on page 22 the rates for funeral cars and trains and special cars, and it is under this schedule that the plaintiff's rate of $25.00 for a car from Denver to Golden appears. The schedule of rates provided by the defendant for The Seeing Denver Company has not been filed with this Commission, but the contract and supplement have been made a part of the record in this case. The defendant has no doubt assumed that the contract between The Seeing Denver Company and the defendant company is a private contract, and therefore has failed to file same with the Commission.

(3) We cannot agree with this proposition. The defendant company provides for special and chartered cars and trains in its schedule of rates now on file with this Commission. It is soliciting this class of service. We are unable to distinguish as between

the kind of service offered to The Seeing Denver Company and the kind of service offered to the plaintiff. On the one hand, the defendant company rents its equipment to The Seeing Denver Company for sight-seeing purposes. On the other hand, it rents its equipment to others for a similar purpose. The defendant company has assumed the burden of furnishing this service in so far as its equipment for said service extends. We realize from the evidence that The Seeing Denver Company rents a certain number of cars on a regular schedule every day during certain months of the year.

The defendant utility generates and buys its electric current and owns certain equipment for sight-seeing purposes. (4) While we recognize the principle that the large shipper or consumer should not have an advantage in rate over the smaller consumer on the basis of quantity alone, yet it is our opinion that it is not unjust discrimination to make a difference in rates where the expense or difficulty of performing the service renders such discrimination fair and reasonable.

And it follows that differences may be made proportionate to the cost of service without the making of any illegal discrimination.

The Seeing Denver Company uses a large quantity of service, which, when considered alone, may not justify a different rate, but when considered with the cost of the service and the regularity of same, may result in a different conclusion.

(5) We feel it to be the duty of the defendant company, under the laws of the State of Colorado, to file an amended schedule of rates. The defendant company may, if it so desires, provide for a class of service for the use of its equipment for sight-seeing purposes at regular intervals and in certain quantities, under fair and just rules and regulations, which may be approved or disapproved by the Commission.

Should it be contended that the order of this Commission in this cause abrogates the terms of the contract between the defendant company and The Seeing Denver Company, the following authorities may be instructive:

Wolverton vs. Mountain States T. & T. Co., 58 Colo. 58, 142 Pac. 165;

Louisville & Nashville Railroad Co. vs. Mottley, 219 U. S. 467;

Southern Wire Company vs. St. Louis Bridge & T. Co., 38 Mo. App., 191;

Colorado & Southern Ry. Co. vs. State R. R. Comm. et al., 54 Colo. 64 (92), 129 Pac. 506;

Mo. Pac. Ry. Co. et al. vs. Kans., ex rel. Taylor, 216 U. S. 262;

City of Benwood vs. Public Service Commission of W. Va., 83 S. E. 295, L. R. A. 1915 C., page 261;

State ex rel. Webster vs. Superior Court, etc., 67 Wash. 37, 120 Pac. 861.

We do not determine in this case whether the rate offered to the petitioner is a fair and just rate, nor whether the rate offered to The Seeing Denver Company is fair and just.

It Is Therefore Ordered, That the defendant, The Denver Tramway Company, shall file with the Public Utilities Commission of the State of Colorado, for its approval, on or before December 1, 1915, a schedule setting forth each and every rate charged by said defendant company, together with rules and regulations pertaining thereto.

And It Is Further Ordered, That the schedule of rates so filed, and the service arising therefrom, shall be offered to the public without discrimination, subject to such rules and regulations as may be approved by the Commission.

This order shall become effective December 1, 1915.

(SEAL)

M. H. AYLESWORTH,
GEO. T. BRADLEY,
S. S. KENDALL,
Commissioners.

Dated at Denver, Colorado, this 7th day of October, 1915.

THE BRECKENRIDGE CHAMBER OF COMMERCE

v.

THE COLORADO & SOUTHERN RAILWAY COMPANY.

(Case No. 37.)

(1) *Service—Railroads—Adequacy.*

Adequate passenger and freight train service ordered by Commission where discontinuance results in unduly circuitous routing.

(2) *Constitutional law—Delegation of powers—Effect of prior laws.*

A statutory provision in the Railroad Commission Act of 1910 limited the orders of the Commission to two years and while the Railroad Commission Act was automatically repealed by the Public Utilities Act of 1913, under a provision in the latter Act all orders and decisions of the Railroad Commission were validated and confirmed.

(October 20, 1915.)

COMPLAINT against assumed discontinuance of freight and passenger train service between Denver and Breckenridge upon March 6, 1916 (the date of expiration of order of the former Railroad Commission, the Act under which it was made, limiting the life of orders to two years), and petition for permanent order; stipulation entered into between plaintiff and respondent and order entered in accordance therewith.

APPEARANCES: Barney L. Whatley for the petitioner; E. E. Whitted for the defendant.

By the Commission:

On September 1, 1915, the above named petitioner filed its petition with The Public Utilities Commission of the State of Colorado, the principal allegation of which was to the effect that the defendant herein contemplated and intended to abandon the whole or some portion of that part of their narrow gauge line between Denver and Leadville, commonly known as the South Park branch of the defendant's property, and leave the people residing along said line without the necessary facilities and service in the way of railroad transportation; and particularly

alleged that the defendant intended to abandon that portion of its line between Como and Breckenridge, thereby cutting off direct communication over its own line between Breckenridge and other points in Summit County, and the seat of the state government at Denver, which would compel the people desiring to reach Denver and other points east to travel by way of Leadville and the Denver & Rio Grande or Colorado Midland railroad, a distance greatly in excess of the direct route over its own line, and at a much greater delay and expense, and would cause like and similar inconvenience in the matter of receiving and shipping mail, express and freight; and further alleged that it was the intention of the defendant to inaugurate and furnish to the citizens of Summit County a mixed passenger and freight train service between Breckenridge and Leadville, in lieu of a through and exclusive passenger train service between Denver and Leadville, as now enjoyed by the said patrons of that line; and further alleged that the defendant refuses and declines to operate a Sunday passenger train over its line in Summit County, to the great detriment and inconvenience of the citizens of that community; and prayed for an order requiring the defendant to cease and desist from such violation of the Act concerning public utilities, and requiring it to operate the whole of said narrow gauge line of railroad from Denver to Leadville; and requiring it to operate a Sunday passenger train for at least six months in the summer and fall seasons; and that it provide through and exclusive passenger and freight service daily; and that it provide suitable and regular freight service for the handling of all kinds of freight and commodities; and for such further and additional relief as the Commission may deem just and proper.

The defendant herein filed its answer to the petition, admitting the mere formal allegations contained in the petition; admitting that it refuses to operate a Sunday passenger train over that portion of its line between Grant and Leadville, and as a reason therefor, alleges there is not sufficient business to warrant it in so doing, and denies each and every allegation, and for further answer, alleges:

> "That its line of road from Denver to Como is known as its Platte Canon district and its line of road from Como to Leadville as its Leadville district; that the last district was operated during the fiscal year ending June 30, 1915, at a loss of over $75,000, not taking into consideration any return on the capital invested in said property; that the Platte Canon district was operated during the same period at a loss of more than $50,000 a year, not taking into consideration any return on the capital invested; that the said line from Denver to Leadville has for many years not earned its operating expenses and any increase in the train

> service between Denver and Leadville will necessarily increase the deficit upon said narrow gauge line from Denver to Leadville; that under the most rigid economy and careful management during the last fiscal year in operating the line from Denver to Leadville in accordance with the order of the State Railroad Commission of Colorado, a deficit, as above stated, was the result of the operation of the line, and such deficit will occur in any future operation of the property."

and prays to have the petition dismissed.

The issues involved in this case have been before this Commission and its predecessor, the State Railroad Commission, for several years. In Case No. 29, reported in the biennial report of the State Railroad Commission for the years 1911-1912, at pages 39-48, the defendant herein was ordered to re-establish freight and passenger service over Boreas Pass, situated between the towns of Como and Breckenridge, and to furnish certain train facilities between Leadville and Denver. The defendant refused to obey this order, which resulted in the Commission bringing a mandamus action in the district court of Summit County for the enforcement of same. The court sustained the order of the Commission and the railroad company was directed to obey the order of the Commission, whereupon an appeal was taken to the Supreme Court, which tribunal sustained the order of the Commission in every particular, which case is reported at 54 Colorado, 64-96.

In view of the fact that a statutory provision of the old Railroad Commission Act limited the orders of the Commission to a period not to exceed two years, it became necessary for the Breckenridge Chamber of Commerce to file a new action to have the order continued, which they did on September 2, 1913. On February 3, 1914, the Railroad Commission entered an order, the terms of which were identical with the former order, which became effective on March 6, 1914, and ran for a period of two years, which case is reported in the Fourth Biennial Report of the State Railroad Commission, 1913-1914, at pages 125-130. On August 12, 1914, the present Public Utilities Commission Law of this state became effective, and the Railroad Commission Law was automatically repealed. All orders and decisions of the former Railroad Commission, however, were validated and confirmed. It will thus be seen that the last order issued in this case by the former Railroad Commission is still in effect and, by its terms, will not expire until March 6, 1916. The provision limiting the orders of the Commission to a period not to exceed two years has been eliminated in the present act, and the purpose of the petitioner in bringing this action at this time is to secure

a renewal of the order without time limit, before the expiration of the former order.

After due notice to all interested parties, the cause was set down for hearing on October 19, 1915, at the Hearing Room of the Commission, Capitol Building, Denver, Colorado. Barney L. Whatley, Esq., appeared for the petitioner, and Elmer E. Whitted, Esq., appeared for the defendant. No testimony or evidence was introduced. The parties agreed to settle the cause by a stipulation, and thereupon filed the following stipulation with the Commission:

> "Come now The Breckenridge Chamber of Commerce, by Barney L. Whatley, its attorney, and The Colorado & Southern Railway Company, by E. E. Whitted, its attorney, and for the purpose of settling and disposing of the above entitled cause of action now pending before The Public Utilities Commission of the State of Colorado, hereby stipulate and agree as follows, to-wit:
>
> "FIRST.—That the Public Utilities Commission of the State of Colorado may be and it hereby is authorized and directed to make and enter an order notifying and directing the defendant above named to, on or before the first day of January, 1916, and until the further order of the Commission in the premises, maintain, operate and conduct a through freight service from Denver to Leadville by way of Como and Breckenridge, at least three days each week, and from Leadville to Denver, by way of Breckenridge and Como, at least three days each week; and also that the defendant, The Colorado & Southern Railway Company do, on or before the said date and until the further order of the Commission in the premises, operate and maintain and conduct a through and exclusive passenger train daily excepting Sunday from Denver to Leadville by the way of Como and Breckenridge, and a through and exclusive passenger train service daily excepting Sunday from Leadville to Denver by way of Breckenridge and Como.
>
> "SECOND.—That when the order above specified and agreed to shall be made and entered by the said Commission, it shall stand as the disposition of the above entitled case so far as said Commission is concerned, and neither party thereto shall be required to produce any evidence concerning the matters and things at issue in the said cause.
>
> "THIRD.—Provided that the defendant Railway Company may at any time hereafter file its petition herein for a modification of said order whenever, by reason of changed conditions or otherwise, a modification of said order may be just and reasonable."

An order will therefore be entered in accordance with the provisions of the above stipulation.

ORDER.

It Is Therefore Ordered, That the defendant, The Colorado & Southern Railway Company, be, and they are hereby, notified and directed to, on or before the first day of January, 1916, and until the further order of the Commission, maintain, operate and conduct a through freight service from Denver to Leadville by way of Como and Breckenridge at least three days each week, and from Leadville to Denver by way of Breckenridge and Como at least three days each week.

It Is Further Ordered, That the defendant, The Colorado & Southern Railway Company, be, and they are hereby, notified and directed to, on or before the first day of January, 1916, and until the further order of the Commission, maintain, operate and conduct a through and exclusive passenger train service daily excepting Sunday from Denver to Leadville by way of Como and Breckenridge, and a through and exclusive passenger train service daily excepting Sunday from Leadville to Denver by way of Breckenridge and Como.

Effective January 1, 1916, and until the further order of the Commission.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 20th day of October, 1915.

In Re: DELIVERY CHARGES OF TELEGRAPH COMPANIES.

(Case No. 30.)

Service—Telegraph—Delivery of messages.

It is a policy of telegraph companies to transmit messages by telephone to addressees located without the free delivery limits in large cities, to afford a more rapid service to their patrons and at the same time eliminate the delivery charges.

(November 4, 1915.)

INVESTIGATION on the Commission's own motion as to charges assessed by telegraph companies for delivery to points outside of the free delivery zone; a uniform charge of ten cents per message having been filed with the Commission, the cause was dismissed.

APPEARANCES: W. J. Lloyd, General Manager, and E. E. McClintock, Superintendent First District, for the Western Union Telegraph Company; W. C. Black, Superintendent, for the Postal Telegraph-Cable Company.

By the Commission:

This is an action brought by the Commission on its own motion to inquire into the practices of the above named defendants in making delivery charges on messages received for their patrons living outside of certain zones within the limits of cities and towns within the State of Colorado.

This cause was instituted on the 24th day of July, 1915, at which time the defendants herein were directed to appear before the Commission on the 1st day of September, 1915, and take such part therein and make such showing upon their own behalf as they desired, or as their interests seemed to require.

Subsequently, upon request of interested parties, the hearing was continued until September 3, 1915, on which date the cause came on for regular hearing at the Hearing Room of the Commission, State Capitol, Denver, at which time witnesses were examined and testimony taken.

Mr. W. J. Lloyd, General Manager, and Mr. E. E. McClintock, Superintendent First District, appeared on behalf of The Western

Union Telegraph Company; and Mr. W. C. Black, Superintendent, appeared for The Postal Telegraph-Cable Company.

The record discloses the fact that the rules of both defendant companies in this case, in reference to the delivery of messages within the limits of cities and towns within the State of Colorado, are practically the same, as shown by tariffs on file with this Commission, which were introduced as evidence in this case. These rules, carried in The Western Union Telegraph Company's tariff Colorado P. U. C. No. 1, and The Postal Telegraph-Cable Company's tariff Colorado P. U. C. No. 13, read as follows:

> "Messages will be delivered free within a radius of one-half mile from the office in any city or town of less than 5,000 inhabitants, and within a radius of one mile from the office in any city or town of 5,000 or more inhabitants. Beyond these limits only the actual cost of the delivery service will be collected; the manager will, however, see that such cost is as reasonable as possible."

The principal cause for this investigation and hearing was on account of numerous informal complaints filed with the Commission from citizens living in various sections of the city of Denver. While this investigation covered every city and town in the state, no complaints other than those herein mentioned were ever made to the Commission.

The defendants in this case, at the request of the Commission, furnished verified statements showing the amount of business done at several of the most important cities and towns in the state during the month of August, 1915, this being considered a representative month. The statement of the Western Union Company typifies the situation and shows that during that month 45,300 messages were received at Denver, of which 9,234 were intrastate, and 36,066 were interstate. Out of this number of messages delivery charges were assessed on 291 intra and 1,404 interstate messages, which in both cases amounts to something less than four per cent of the whole.

The testimony shows that a large number of intrastate messages received at Denver office are handled at the minimum transmittal rate of twenty-five (25c) cents per message and the defendants allege that it would be unjust to them to be compelled to absorb the cost of delivery out of this small amount of revenue when such messages are destined to patrons living outside of the free delivery limits.

The record discloses the fact that the Western Union Company maintains five (5) sub-stations in various parts of the city of Denver, and all messages are delivered without extra charge to any point within a radius of one mile from each of these sub-stations.

The Postal Company does not maintain sub-stations, but meets the Western Union competition by making deliveries from its main office into the same territory served by the Western Union from its sub-stations.

Evidence was introduced to show that the Western Union Company, in order to facilitate and improve the service, established other sub-stations in other parts of the city, but experience proved that this plan hindered rather than helped the service. The plan was subsequently abandoned and, with the exception of five (5) sub-stations now in use, all business is now transacted through the main office at less expense to the company and better and quicker service to the patrons.

It appears that it is the policy of both companies to use the telephone whenever possible to transmit telegrams to patrons living outside of the free delivery limits, thus affording a quicker service to their patrons and at the same time eliminating the delivery charges. It appears that quite a volume of business is transacted in this way.

Since the commencement of this investigation the Western Union Company, which does about eighty (80%) per cent of the telegraph business in the city of Denver, has filed with the Commission an amendment to its rules, which provides for a uniform delivery charge of ten (10c) cents for each message where delivered by messenger to any point within the city limits outside of the regular free delivery zone, thus eliminating the excessive delivery charges heretofore made in some instances.

With this amendment to their rules in effect, we can see nothing in the record which would justify making an order in this case. The case will, therefore, be dismissed.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH.
Commissioners.

Dated at Denver, Colorado, this 4th day of November, 1915.

CHARLES W. HAINES

v.

THE COLORADO SPRINGS LIGHT, HEAT & POWER COMPANY.

(Case No. 36.)

(1) *Service—Extensions—Gas—Guarantees.*

The reasonableness of guarantees and rules for extension of mains can only be determined by the circumstances, and facts peculiar to each case, and it is impractical to establish a precedent fixing a standard and inflexible rule.

(2) *Service—Extensions—Gas—Guarantees—Reasonableness.*

A rule of a gas company requiring a prospective consumer to assume a portion of the responsibility, by guaranteeing to use sufficient gas in three years, at current rates, for the extension of mains held reasonable, and such rule does not, as alleged, compel citizens to pay for permanent additions to the company's plant.

(3) *Service—Extensions—Guarantee of income.*

Before extending its mains to serve a tenant house facing a side street a gas company may demand a guarantee that enough gas will be used in three years to cover at least the actual cost of construction, it appearing that there is no other necessity therefor, and that it is extremely doubtful whether other houses will be built on such street.

(November 4, 1915.)

COMPLAINT that a rule of the Colorado Springs Light, Heat & Power Company, requiring a consumer to guarantee to use sufficient gas in three years, at current rates, to cover the cost for extension of mains was unreasonable; rule found reasonable and complaint dismissed.

APPEARANCES: Charles W. Haines for petitioner; R. L. Holland for the defendant.

By the Commission:

On September 1, 1915, the petitioner herein filed complaint against the above named defendant and alleged that he is the owner of the lots Nos. 7 and 8 in block Q, Edwards' Addition, of the city of Colorado Springs, said lots having a frontage of 100 feet on Tejon Street and 190 feet on Buena Ventura Street.

That on said ground are two houses. The front one stands back 50 feet from Tejon Street and is occupied by the petitioner. The other stands 160 feet back from Tejon Street, facing north on Buena Ventura Street, and is occupied by tenants of petitioner. The gas main of the defendant is laid in Tejon Street, and the defendant ran its service pipe from its main pipe in Tejon Street to the Petitioner's residence, a distance of 75 feet, but refuses to extend its pipes in Buena Ventura Street to a point opposite the petitioner's rear house, a distance of approximately 214 feet from the main in Tejon Street, unless the petitioner will guarantee that enough gas will be used within three years at current rates to cover the cost of said extension, amounting to $69.66.

That the houses stand in a thickly settled part of the city, and petitioner is substantially damaged by his inability to supply gas demanded by his tenants, and since they change from year to year, the petitioner cannot control their use of gas or guarantee the amount they shall use.

That said defendant is in the enjoyment of a valuable franchise to use the city streets, and that in return thereof, its charter (page 5, sec. 7, appendix to code of Colorado Springs) provides:

> "That the said company will within reasonable time thereafter lay pipes, distribute and sell gas on any and all streets respectively in the city of Colorado Springs so far as there may be any reasonable demand for such gas on said streets or any of them."

That said defendant may not, in addition to its franchise, demand that citizens desiring to use gas shall pay for permanent additions to the company's plant in the city streets, and prays for an order to compel the defendant to extend its pipe in Buena Ventura Street to a point opposite petitioner's house.

The defendant made answer thereto, admitting all of the relevant facts alleged in the petition, and further answering, alleged that the lots in that part of the city in question are platted to face east and west. That the mains of the defendant run north and south in the streets on each side of petitioner's property. That the house in question is built on the rear of petitioner's lots next to the alley and face north, which is approximately one-half of the distance between the mains of the defendant, situated in Tejon Street and Cascade Avenue, the next street west thereof. That the patrons living between these two streets are served with gas from one or the other of those mains. That it is willing to connect the petitioner's house with the main in Tejon Street for the usual charge of $5.00, as provided for in such cases. That the house in question is the only one on Buena Ventura Street between Tejon Street and Cascade Avenue. That, while there is room for

several other houses, there is no immediate prospect of their being built, and that it would be unreasonable to expect the defendant to lay the main in question unless the petitioner will guarantee that enough gas will be used in three years to cover the cost of the construction, for the reason that the petitioner's property may become vacant at any time and remain unoccupied indefinitely, in which event the defendant's investment would remain idle and its other customers would therefore be compelled to bear the burden of this unwarranted investment, and alleges that the petitioner's house can be connected up with the company's existing gas mains by joining the connection onto the service pipes suppling petitioner's residence, both houses being located on the same lots, and prays to have the case dismissed. After due notice the case was set down for hearing on October 11, 1915, at the Council Chamber at Colorado Springs, before Commissioner Kendall. Charles W. Haines, Esq., the petitioner, appeared in his own behalf. R. L. Holland, Esq., appeared for the defendant. The petitioner asked and was granted leave to make a minor amendment to the petition. All the facts alleged in the petition were then admitted by the defendant, and the parties agreed to submit the case on the pleadings without taking evidence.

This case, as the Commission understands the situation, is submitted more in the nature of a friendly suit than otherwise, and the only question involved is the reasonableness of the guarantee, which the defendant demands of the plaintiff to make this extension.

(1) The question of reasonableness in regard to the extension of service mains must be determined by the peculiar circumstances and facts surrounding each particular case. It is patent to the Commission that no fixed standard or inelastic rule can be established as a precedent to be followed in every case. This position seems to have been taken by practically every regulative body and Commission having jurisdiction over Public Utilities. The defendant in this case has laid its mains to conform to the manner in which that particular section of the city was platted. That is, the lots face east and west and the mains of the defendant are laid in the street, which runs north and south. They are thus in a position to make direct connection with every lot in that portion of the city.

The defendant in making answer to this petition set forth the fact that it made a uniform charge of $5.00 to make a connection with its mains, irrespective of the location of the building on the lots, and counsel for defendant alleged their willingness to make this connection in this manner or to make it by extending the service pipe from the plaintiff's residence, situated on the front of the lots, to the house in question, situated on the rear of the lots.

The rules and regulations of the defendant in reference to extension of lines and mains as shown by schedules on file with this Commission read as follows:

> "Extensions of lines or mains are made where the gross income earned on such extensions for the first two years equals or exceeds the cost of the extension. When this income is not assured, guarantees are taken from the consumers served equal to this amount and covering a two-year period. Any additional income accruing on this extension is applied on the above guarantees."

The plaintiff in this case is the only one who would be benefited by such an extension. It is admitted that no other necessity exists for its construction. It could not and would not be used for fire protection in the neighborhood, and it is extremely problematical that other residences will ever be built on the proposed extension. The length of the extension would be approximately 214 feet, and estimated cost would amount to $69.66. The defendant is not asking the plaintiff to pay for the cost of installation, but simply asking the plaintiff to assume some of the responsibility by requiring him to guarantee to use sufficient gas in three years, at current rates, to cover this cost.

The Commission is inclined to take the view that the position of the defendant is reasonable and that it will work no hardship on the plaintiff. (2) Neither can we agree with the allegation of the petitioner that such a regulation is in fact compelling citizens to pay for permanent additions to the company's plant in the city streets. An order will therefore be entered dismissing the case.

(3) The Commission feels that the three-year minimum is a reasonable regulation in this instance. We note, however, that this does not harmonize with a two-year clause, as shown by schedules on file with this Commission. Neither does the schedule make any provision for a $5.00 connection charge.

ORDER.

It Is Hereby Ordered, That this case be dismissed, and it is further ordered that the defendant, The Colorado Springs Light, Heat & Power Company, forthwith file amended schedules with this Commission, showing all connection charges demanded by it and such rules concerning the minimum guarantees as are not now on file with this Commission.

S. S. KENDALL,
(SEAL) GEORGE T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 3rd day of November, 1915.

F. N. COCHEMS

v.

THE DENVER & RIO GRANDE RAILROAD COMPANY.

(Case No. 25.)

(1) *Commissions—Jurisdiction—Practice.*

The Public Utilities Commission of the State of Colorado is not a court, but is a creature of the legislature, with its jurisdiction extending only to defined powers, and acts quasi-judicially as to the determination of facts only when relevant to the defined powers as set forth in the Public Utilities Law.

(2) *Discrimination—Free service and reduced rates—Railroads—Charitable Institutions.*

Under the Public Utilities law, common carriers may transport freight free, to and from charitable institutions, and the Commission is without power to prohibit the free transportation to or from such institutions, when the shipments are made in accordance with the rules of the Commission; and the receiving and treating by a Relief Association Hospital of persons who are not contributing members of the association does not take the hospital from "charitable institutions," as set forth in the Public Utilities law, when said hospital is maintained at a loss, or the compensation does not exceed what is required for the successful maintenance of the institution.

(3) *Discrimination—Free service and reduced rates—Railroads—Physicians and surgeons.*

Common carriers, under the Public Utilities law, are prohibited from granting free or reduced transportation to physicians and surgeons, in the employ of a carrier's Relief Association, who do not devote their entire time to the work of the association, but the Commission is without power to prohibit the granting by carriers of free, or reduced, transportation to the carrier's physicians and surgeons when within the meaning of the law.

(November 15, 1915.)

COMPLAINT against the practice of the Denver & Rio Grande Railroad of granting free or reduced rates on freight and supplies to its employees' Relief Association, and granting free or reduced transportation to physicians and surgeons of such association; held, that when such Relief Association comes within the meaning of "charitable institutions" such practice does not result in discrimination.

APPEARANCES: G. K. Hartenstein for the complainant; J. G. McMurry for the defendant.

By the Commission:

On the 29th day of June, 1915, the plaintiff filed with the Commission his verified complaint, in which it is alleged that there is located in the City of Salida, State of Colorado, a hospital known as the "Red Cross Hospital," owned and operated by the plaintiff in this case, and that there is also located in said City of Salida a hospital owned, operated and maintained by The Denver & Rio Grande Employees' Relief Association, a corporation organized under the laws of the State of Colorado. It is further alleged that the Relief Association is composed, and its membership consists of the officers and employees of the defendant railroad company. It is further alleged that the Relief Association, according to its articles of incorporation, constitution and by-laws, is organized for the purpose of furnishing medical and surgical treatment to its members only. It is further alleged that in violation of the express provision of its articles of incorporation, constitution and by-laws, the Relief Association receives into and treats in its said hospital, persons who are not members of the Association, and solicits business from the public in competition with the complainant's private hospital. Complainant further alleges that the said Relief Association has on its medical staff and in its employ about one hundred physicians and surgeons, located within the State of Colorado, and that the Defendant Railroad Company furnishes free transportation between points within the State of Colorado to the said physicians and surgeons in the employ of the Relief Association; Complainant further alleges that the physicians and surgeons aforesaid are not employees and are not in the service of the Defendant Railroad Company. Complainant further alleges, upon information and belief, that the Defendant has been and is now transporting supplies, for the use of said Relief Association hospital, at Salida, without charge.

It is then alleged in Plaintiff's complaint that the alleged issuing of free transportation, and the transporting of supplies without compensation for the same, is in violation of Section 17, Sub-division A, of the Public Utilities Law, and is a prejudice and disadvantage to the Complainant, and the Complainant prays that the Defendant be prohibited and required to desist from furnishing free passes or free transportation to all physicians and surgeons in the employ of the said The Denver & Rio Grande Employees' Relief Association, and that the Defendant be required to cease transporting supplies free for the use of the said Relief Association hospital.

On the 9th day of July, 1915, the Defendant, The Denver & Rio Grande Railroad Company, filed with the Commission its

verified answer, in which it admits the furnishing by the said Defendant of free transportation to the physicians and surgeons in the employ of the Relief Association, and alleges that these physicians and surgeons are physicians and surgeons of the Defendant Company. The Defendant admits that it transports provisions free and at reduced rates to the Hospital of said Relief Association, and alleges that the Association Hospital is operated at a loss; and the Defendant further alleges that it has contributed substantially to the cost of said Hospital and the maintenance and operation thereof, and stands ready at all times to contribute to the expense of such maintenance and operation, and at all times contributes thereto the services of its accounting, financial and other officers, and to such extent the said Association does not alone and of and by itself operate and maintain said Hospital. It is further alleged by the Defendant that it collects funds from its employees, and contributes its on funds, to the end that the Association Hospital may be operated and maintained. The Defendant denies that the said Association solicits and receives business from the public in competition with Complainant's hospital, but admits that it receives at said Hospital persons who are not members of said Association; and prays that the said complaint be dismissed.

The above cause was heard at 10:00 o'clock A. M., August 16, 1915, at the Hearing Room of the Commission, in the State Capitol Building, in the City and County of Denver. The Plaintiff was the only witness who testified in this case. Two exhibits were introduced by the Plaintiff, the first of which was a certified copy of the Articles of Incorporation of The Denver & Rio Grande Employees' Relief Association, and the second being a copy of the Constitution and By-Laws and the Rules and Regulations of the Relief Association. One exhibit was introduced by the Defendant, which was a copy of a letter written by the General Attorney for the Defendant Company to the Public Utilities Commission of the State of Colorado, presenting the views of the Defendant Company in regard to free transportation and the maintenance and operation of said Relief Association Hospital.

(1) The Public Utilities Commission of the State of Colorado is not a court. It is a creature of the Legislature, with its jurisdiction extending only to defined powers, and acts quasi-judicially as to the determination of facts when said facts are relevant to the defined powers as set forth in the Public Utilities Law. We are of the opinion that only two relevant questions have been presented to the Commission for decision.

First—Under the Colorado laws pertaining to Public Utilities may the Defendant Railroad issue free or reduced rate transportation to physicians and surgeons employed by the Relief Association?

Second—Under the Colorado laws pertaining to Public Utilities may the Defendant Company transport provisions and other freight at a free or reduced rate to the hospital of the Relief Association?

On the 6th day of January, A. D. 1888, The Denver & Rio Grande Railroad Company Employees' Relief Association filed its Articles of Incorporation with the Secretary of State of the State of Colorado. The Articles of Incorporation, a copy of which was introduced in evidence in the above cause, show that the corporation was not organized for pecuniary profit, and was

> "formed for the purpose of creating a fund by the payment of monthly dues by the members thereof, to be used in buying, leasing or renting lands on which to build hospitals, the building, leasing or renting of hospitals, the furnishing and equipping of the same, the employment of surgeons and physicians, nurses and attendants, the purchase of medical and hospital stores, the purchase of burial lots in cemeteries or other places, and, in short, the procuring by purchase, lease, gift or otherwise, of all such real property or personal property as may be necessary, and the employment of every proper and desirable agency in the treatment of all such injuries and diseases of its members, as it may see fit to undertake, and to provide for their burial, and the relief of their families when they die, in such manner as may be provided in the constitution and by-laws of the Association."

From an examination of Plaintiff's Exhibit No. 2, which is a copy of the Constitution and By-Laws, and Rules and Regulations of The Denver & Rio Grande Railroad Company Employees' Relief Association, it is developed that: The employees of the Defendant Company "create a fund for the maintenance and operation of the Association Hospital, as well as to pay the funeral expenses of deceased members; and, in addition thereto, relief to the family in case of the death of a member, as may be hereafter provided." The members of the Association are required to pay monthly dues to the treasurer of the Association of fifty cents per month for each employee; provided, that employees that work only a fractional part of any month shall be required to pay dues which are prescribed by the Constitution of the Relief Association, and are less than fifty cents a month. These amounts are deducted monthly upon the pay roll of each employee.

Under the Rules and Regulations of the Relief Association it becomes necessary for any person, desiring admittance to said Association Hospital for treatment and medicines, as provided in the Constitution, to show that he is a contributing employee of The Denver & Rio Grande Railroad Company, and, after such

showing, the contributing employee is entitled to treatment and medicines without additional charge.

The Commission has carefully examined the exhibit of the Defendant Company, which is addressed to the Commission and written by the General Attorney for the Defendant Company, in explanation of the position of the Defendant in this cause, and which sets forth that the hospital of the Relief Association is an eleemosynary institution, operated at a loss, and that surgeons and physicians of the Relief Association are permitted to bring to the Relief Association Hospital private patients, and, as a result, the said physicians and surgeons receive less compensation from the Relief Association for services performed by them for the Relief Association.

From the Articles of Incorporation, and its Constitution and By-Laws, and from the evidence in this case, we have arrived at the conclusion that the Hospital of the Relief Association is a charitable institution; and the receiving and treating by said Association of persons who are not contributing members of the Association does not take the hospital of the Relief Association from "charitable institutions" as set forth in the Public Utilities Law of the State of Colorado when said hospital is maintained at a loss or the compensation does not exceed what is required for the successful maintenance of the institution.

Bishop & Chapter v. Treasurer, 37 Colo., 378 (387).

(2) As we construe the Public Utilities Law of the State of Colorado, common carriers may transport provisions and freight, without charge, to and from charitable institutions, between points in the State of Colorado, when said shipments are made in accordance with the rules and regulations of the Commission, and we are therefore compelled to arrive at the conclusion that the Commission is without jurisdiction to prohibit the free transportation of freight by a common carrier, operating within the State of Colorado, to and from charitable institutions, when the points of origin and destination are within the State of Colorado and the shipments are made in accordance with the rules of the Commission.

(3) We are of the opinion that physicians and surgeons employed by the Relief Association, who do not devote their entire time to the work of the Relief Association, are not entitled, under the laws of the State of Colorado, to free or reduced rate transportation.

Section 17 of the Laws of the State of Colorado pertaining to Public Utilities, Sub-division A, provides that no public utility, subject to the provisions of this Act, shall directly or indirectly issue, give or tender any free service, ticket, frank, free pass or other gratuity of free or reduced rate transportation for passage

between points within this State, and enumerates certain exceptions to this rule, one of said exceptions being "except to its (the public utility's) employees and their families, its officers, agents, surgeons, physicians and attorneys at law." If the contention of the Defendant Company be true, that the physicians and surgeons complained of receive free or reduced rate transportation due to the fact that the said physicians and surgeons are physicians and surgeons of the Defendant Company within the meaning of the Act, then the Commission is without power to prohibit the issuance of said free or reduced rate transportation by the said Defendant Company.

It Is Therefore Ordered:

1. That the petition of the Plaintiff be dismissed as to the complaint against free transportation of freight to and from the Hospital of The Denver & Rio Grande Railroad Company Employees' Relief Association, when the point of origin and the point of destination are within the State of Colorado.

2. That the petition of the Plaintiff be sustained as to the complaint against free or reduced rate transportation to physicians and surgeons of The Denver & Rio Grande Railroad Company Employees' Relief Association, who do not devote their entire time to the work of the Association.

3. That nothing herein shall prohibit the Defendant Company from issuing free transportation to its physicians and surgeons when the issuing of such transportation comes within the meaning of the statutes of Colorado in such cases provided.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 16th day of November, 1915.

In Re: PROTECTIONS AT GRADE CROSSINGS

of

THE ATCHISON, TOPEKA & SANTA FE RAILWAY, and

THE DENVER & RIO GRANDE RAILROAD, at MEXICO, FLORIDA AND IOWA AVENUES

in Denver.

(Case No. 44 and Sub. No. 1.)

Crossings—Grade—Protections—Adequacy.

Electric safety device specifications as submitted by certain carriers were tentatively approved by the Commission, and electric audible and visible safety devices were ordered installed where the evidence showed that the protection afforded at grade crossings was insufficient.

(December 1, 1915.)

INVESTIGATION on the Commission's own motion as to sufficiency of protection afforded at grade crossings of A., T. & S. F. Ry. and D. & R. G. R. R. at Mexico, Florida and Iowa Avenues, Denver; electric safety devices as submitted by carriers were tentatively approved and signals ordered installed.

APPEARANCES: F. R. Rockwell for The Denver & Rio Grande Railroad Company; J. E. McMahon for the Atchison, Topeka & Santa Fe Railway Company.

By the Commission:

Pursuant to order of the Commission, in the above entitled cause, bearing date of November 11, 1915, representatives of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company appeared before the Commission on the 1st day of December, 1915, at the hour of 10:00 o'clock A. M., at its Hearing Room in the State Capitol Building in the City and County of Denver, State of Colorado, and presented sketches, blueprints and specifications of proposed visible and audible automatic crossing signals to be installed at the railroad crossings of said railroad companies at West Mexico, Florida and Iowa Avenues in the City and County of Denver.

The sketches and specifications submitted by The Atchison, Topeka & Santa Fe Railway Company are of the signal known as the "Atchison, Topeka & Santa Fe system Standard D. C. Automatic Flagman," and the sketches and specifications submitted by The Denver & Rio Grande Railroad Company are of the signal known as the "Magnetic Signal" of The Protective Signal Manufacturing Company of Denver, Colorado. The sketches, plans and specifications were tentatively approved by the Commission, subject to final approval upon thorough test having been made of the signals after installation.

It Is Ordered by the Commission that the said signals, as shown in the sketches, plans and specifications submitted, are to be installed within sixty (60) days from the date hereof.

It Is Further Ordered, That The Denver & Rio Grande Railroad Company install the signals proposed by it on the west side of its tracks at each of the above named crossings, and that The Atchison, Topeka & Santa Fe Railway Company install its proposed signals on the east side of its tracks at each of said crossings.

It Is Further Ordered, That, pending installation and approval of the said signals at the above mentioned crossings, the West Mexico Avenue crossing of The Atchison, Topeka & Santa Fe Railway Company and The Denver & Rio Grande Railroad Company is to be protected by a flagman in accordance with the order of this Commission bearing date of November 11, 1915.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 1st day of December, 1915.

In Re: PROTECTION AT GRADE CROSSING

of

THE COLORADO & SOUTHERN RAILWAY COMPANY

at 12th Street

in the City of Boulder.

(Case No. 47.)

Crossings—Grade—Protections—Adequacy.

Electric safety device specifications as submitted by a carrier were tentatively approved by the Commission and an electric audible and visible safety device was ordered installed where the evidence showed that the protection afforded at a grade crossing was insufficient.

(December 14, 1915.)

INVESTIGATION on the Commission's own motion as to the sufficiency of protection afforded at grade crossing of the Colorado & Southern Railway at Twelfth Street in the City of Boulder; electric safety device specifications as submitted by carrier were tentatively approved by the Commission and signal ordered installed.

APPEARANCES: A. S. Brooks, Attorney, and E. S. Koller, General Manager for The Colorado & Southern Railway Company; W. H. Edmonds, Electrical Engineer, for the Denver & Interurban Railroad Company; E. H. Fitzpatrick, Street Commissioner, for the City of Boulder.

By the Commission:

Pursuant to order of the Commission, in the above entitled cause, bearing date of December 6, 1915, representatives of The Colorado & Southern Railway Company appeared before the Commission on the 14th day of December, 1915, at the hour of 2:00 o'clock p. m., at its Hearing Room in the State Capitol Building in the City and County of Denver, State of Colorado, and presented sketches, blueprints and specifications of a proposed visual and audible automatic crossing signal to be installed at the railroad crossing of said railroad company at Twelfth and Marine

Streets, in the City of Boulder, State of Colorado. The sketches and specifications submitted by the said Colorado & Southern Railway Company are of the signal known as the "Magnetic Signal" of The Protective Signal Manufacturing Company of Denver, Colorado. The sketches, plans and specifications were tentatively approved by the Commission, subject to final approval upon thorough test having been made of the signal after installation.

It Is Ordered, by the Commission, That the said signal, as shown in the sketches, plans and specifications submitted, is to be installed within sixty (60) days from the date hereof.

It Is Further Ordered, That, pending the installation of this signal, and pending the further orders of the Commission, that:

Northbound D. & I. trains must come to full stop before crossing Twelfth and Marine Streets, at the foot of College Hill, in Boulder.

Southbound D. & I. trains and all steam trains in both directions must reduce speed to four (4) miles per hour over this crossing, and all trains must sound warning whistle 100 feet from the crossing before passing over, and all motor and engine bells must be ringing.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 14th day of December, 1915.

In Re: RATES AND SERVICE OF THE COLORADO SPRINGS LIGHT, HEAT & POWER COMPANY.

*(Case No. 24.)

(1) *Apportionment—Electric and gas—Values, earnings and expenses.*

In a valuation of a utility for rate-making purposes the values, earnings and expenses were apportioned between the electric, hydro, gas and steam-heating properties.

(2) *Valuation—Elements—Original cost—Reproduction cost—Property in use.*

In a valuation of the property of an electric and gas utility for rate-making purposes the cost new and the depreciated present value cover only the property in use or useful in the public service.

(3) *Valuation—Contractors' profits.*

In a valuation of an electric and gas utility for rate-making purposes ten per cent was allowed as contractors' profits on the particular items which must necessarily include work done under contract.

(4) *Valuation—Electric—Property not in use or useful.*

In a valuation of the electric properties of a utility for rate-making purposes an item of $11,966 was disallowed in ascertaining the present fair value, as the item represented the value of a 500 k.w. vertical steam turbine which was not in use or useful.

(5) *Valuation—Electric and gas—Going value.*

While it is recognized that there is a difference between a plant with a developed business and one without it, and that there is an added value on this account to be taken into consideration, an amount as indicated by early deficits is only an indication, and not a measure, of the amount to be allowed as going value, and the Commission in making a valuation of an electric and gas utility for rate-making purposes, valued the property as a going concern, but designated no specific amount for going value.

(6) *Depreciation—Rate—Electric.*

After applying various rates of depreciation to items of depreciable electric property of an electric and gas utility, in a valuation for rate-making purposes, and using the straight line method, the composite depreciation of the electric property was found to be 4.25% of the cost new of the depreciable property, amounting to $52,000 annually, and that of the hydro-electric property was found to be 2.8%, amounting to $6,300 annually.

*Effective date postponed to February 1, 1916; petition for rehearing pending.

(7) *Depreciation—Rate—Gas.*

After applying various rates of depreciation to items of depreciable gas property of an electric and gas utility, in a valuation for rate-making purposes, and using the straight line method, the composite depreciation of the gas property was found to be 3% of the cost new of the depreciable property, amounting to $20,000 annually.

(8) *Depreciation—Rate—Method of computation.*

The straight line method, rather than the sinking fund method, of providing for depreciation was used in a valuation of an electric and gas utility for rate-making purposes, without the Commission approving or disapproving such basis, as the straight line method reflects more closely the practical conditions under which utility properties are generally managed; and the rate of return was based on the depreciated, or present, value.

(9) *Valuation—Electric and gas—Working capital.*

Working capital should be an amount sufficient to take care of the operating expenses of a company until the revenue from operations is sufficient for that purpose, and include in addition stores and supplies, merchandise for sale, coal in storage and for immediate use, and a general cash balance for which the customer is not directly responsible.

(10) *Valuation—Electric—Working capital.*

In a valuation for rate-making purposes, $45,000 having been found excessive, $30,000, exclusive of stores and supplies, was allowed as working capital to be included in the present fair value of the electric property of a utility, used or useful in the public service, which was fixed at $1,481,762.

(11) *Valuation—Electric—Development.*

In a valuation for rate-making purposes, preliminary organization and development expense to the amount of $79,125 was found reasonable where the value of the electric property was found to be $1,481,762.

(12) *Valuation—Electric—Property not in use or useful.*

In a valuation for rate-making purposes where it appeared that an electric company operated a hydro plant and that such plant was clearly auxiliary to its steam generating plant, the steam plant being of sufficient capacity to carry the entire load, the water power was determined to be of no value, inasmuch as no saving was made by its use, the value of the hydro plant being in break-down service and the saving in coal expense, which were entirely offset by maintenance and operating expense, interest and depreciation.

(13) *Valuation—Electric and gas—Property not in use or useful.*

An annual operating expense for payment of interest on an option for a water right, as well as the alleged value of the water right, were disallowed in the valuation of an electric and gas utility for rate-making purposes, where it appeared that the water right was not, and could never be, used or useful in the public service.

(14) *Return—Rate—Electric.*

In a valuation for rate-making purposes of an electric and gas utility, after considering all the elements necessary to determine a fair value, such as original cost, cost of reproduction, investment, present value, preliminary organization and development cost, engineering and supervision, interest, insurance, going value, etc., the fair value of the electric and hydro properties was found to be $1,481,762 and the rate of return thereon 12.27%.

(15) *Discrimination—Electric—Rates.*

Special rates and privileges of utilities, even though due to circumstances not within their control, are discriminatory as between consumers, are illegal and must be discontinued.

(16) *Discrimination—Free service—Prior contracts.*

The furnishing by an electric utility of free service to a consumer under the provisions of a contract, even though such contract was entered into prior to the passage of the Public Utilities Law, is discriminatory and illegal.

(17) *Discrimination—Free service and reduced rates—Officers, employees and stockholders.*

The practice of furnishing electricity and gas free of charge, or at reduced rates, to officers, directors, employees and stockholders was declared illegal under the Public Utilities Act, and ordered to be discontinued.

(18) *Rates—Electric—Reasonable—Return.*

The rate of return upon the electric and hydro properties of a utility having been found to be 12.27%, in a valuation for rate-making purposes, the rates and charges for electricity were found to be unreasonable, and reasonable rates were prescribed which would yield a return of not less than 7½%.

(19) *Valuation—Gas—Working capital.*

In a valuation for rate-making purposes, $22,500 having been found excessive, $15,000, exclusive of stores and supplies, was allowed as working capital to be included in the present fair value of the gas property of a utility, used or useful in the public service, which was fixed at $710,917.

(20) *Valuation—Gas—Development.*

In a valuation for rate-making purposes, preliminary organization and development expense to the amount of $20,000 was included in the present fair value of the gas property of a utility, used or useful in the public service, which was fixed at $710,917.

(21) *Return—Rate—Gas.*

In a valuation for rate-making purposes of an electric and gas utility, after considering all the elements necessary to determine a fair value, such as original cost, cost of reproduction, investment, present value, preliminary organization and development cost, engineering and supervision, interest, insurance, going value, etc., the fair value of the gas property was found to be $710,917 and the rate of return thereon 1.16%.

(22) *Rates—Gas—Reasonableness—Return.*

While a public utility is entitled to earn a reasonable return upon the present fair value of its properties, the consuming public is required to pay only the reasonable value for the service or commodity furnished, and in a valuation of the gas properties of a utility for rate-making purposes, a rate of $1.00 per 1,000 cubic feet was found to be reasonable where the rate of return on such properties was but 1.16%.

(23) *Rates—Gas—Reasonableness—Minimum charge.*

A monthly minimum charge of 50 cents per meter for gas was found to be reasonable and to be the average minimum charge of gas utilities over the state.

(24) *Rates—Gas—Reasonableness.*

Where the gas properties of a utility were shown to be earning only 1.16% the company was given leave to petition for an increase in rates, together with sufficient showing as to the justification for such increase, although the Commission was of the opinion that an increase in rates would be met by a decrease in consumption and the revenues be decreased rather than increased.

(25) *Delegation of powers—Jurisdiction of Commission—Constitutional law.*

The laws of Colorado enumerate by name all utilities which shall be under the jurisdiction of the Public Utilities Commission, and as steam furnishing utilities are not so specifically named the Commission is without jurisdiction over such utilities.

(December 15, 1915.)

INVESTIGATION on the Commission's own motion as to the reasonableness of the rates, charges and rules of the Colorado Springs Light, Heat & Power Company; electric rates found unreasonable, and reasonable rates prescribed; gas rates found reasonable; company ordered to discontinue free or reduced service to employees, officers, directors and stockholders; Commission is without jurisdiction over steam-heating utilities.

APPEARANCES: R. L. Holland, Attorney, for The Colorado Springs Light, Heat & Power Company; J. L. Bennett, City Attorney, for the City of Colorado Springs.

By the Commission:

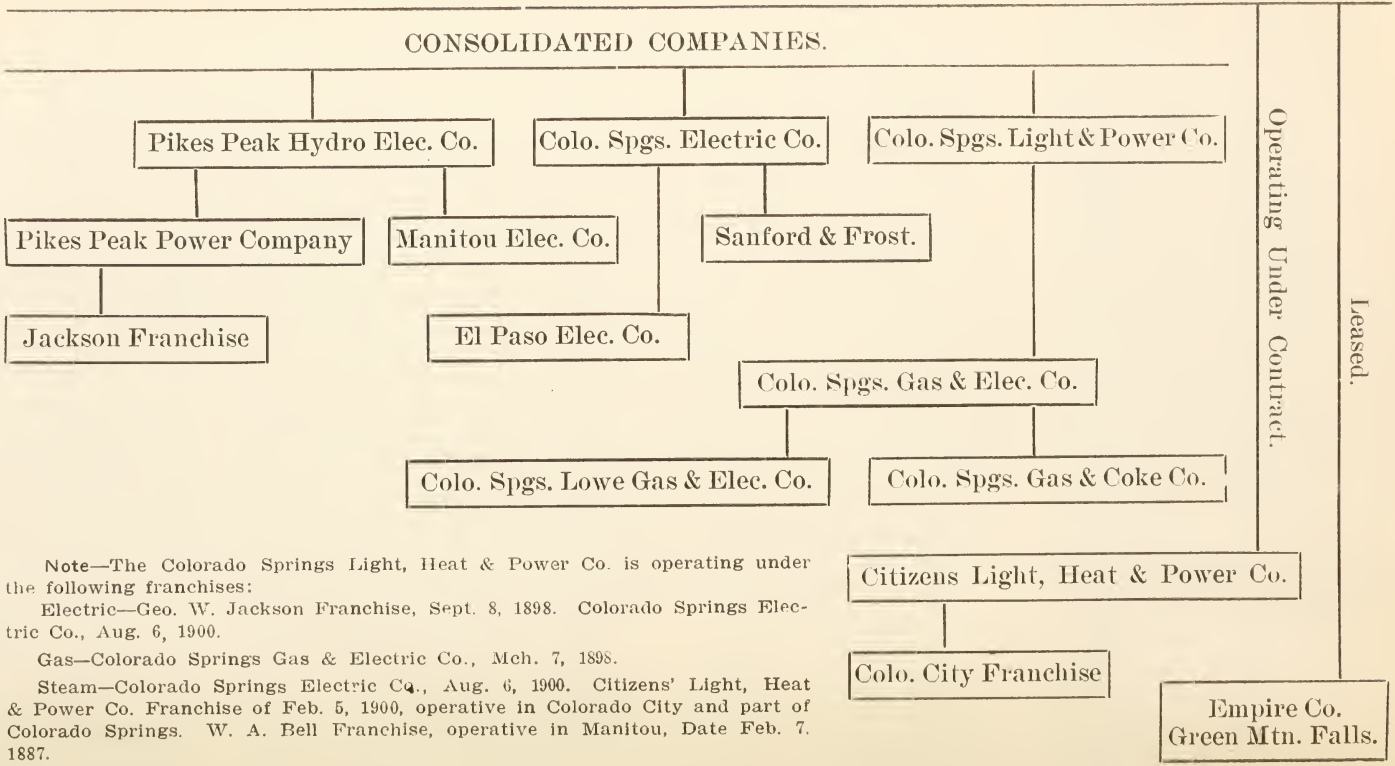
Numerous informal complaints against the rates, and the rules, regulations and practices of The Colorado Springs Light, Heat & Power Company having been filed with this Commission, together with a resolution adopted by the City Council of Colorado Springs requesting this Commission to hold an investigation into the rates, service, and rules, regulations and practices of The Colorado Springs Light, Heat & Power Company, hereinafter called the "Defendant Company," the Public Utilities Commission, on the 17th day of June, 1915, after six weeks' preliminary investigation by its Engineering Staff, ordered an investigation into the rates, service, rules, regulations and practices of the Defendant Company, and notified said Company and the City of Colorado Springs of the hearing of the above cause at the hour of 2:00 o'clock p. m. on the 3rd day of August, 1915, at the City Hall, Colorado Springs, Colorado.

On the 3rd day of August, 1915, the hearing and investigation convened at Colorado Springs, and the Commission heard the reports of its engineering and statistical staff, as well as the evidence of many other witnesses on behalf of the Defendant utility corporation and the City of Colorado Springs. The Engineering Staff of the Commission introduced into the evidence its re-

port on the valuation of the properties of the Defendant Company. The Commission's statistician introduced into the evidence his report, in which was embodied a complete history of the Defendant Company, as well as an abstract of the accounts and (1) the distribution of the expenses as between electric, gas and steam properties of the Defendant Company.

An adjournment was then taken until the 31st day of August, 1915, at which time the said investigation was continued at the Hearing Room of the Commission in Denver, the Engineer for the Defendant Company giving the Commission his opinion as to the values of the properties of the Defendant Company.

COLORADO SPRINGS LIGHT, HEAT AND POWER CO.



Note—The Colorado Springs Light, Heat & Power Co. is operating under the following franchises:

Electric—Geo. W. Jackson Franchise, Sept. 8, 1898. Colorado Springs Electric Co., Aug. 6, 1900.

Gas—Colorado Springs Gas & Electric Co., Mch. 7, 1898.

Steam—Colorado Springs Electric Co., Aug. 6, 1900. Citizens' Light, Heat & Power Co. Franchise of Feb. 5, 1900, operative in Colorado City and part of Colorado Springs. W. A. Bell Franchise, operative in Manitou, Date Feb. 7. 1887.

(1 Colo. P.U.C.)

The Colorado Springs Light, Heat & Power Company, the present operating company, was incorporated on June 21, 1910, and formed on that date a consolidation of the three following companies: The Pike's Peak Hydro-Electric Company, which operated the hydro plant; The Colorado Springs Electric Company, which operated the lighting system for Colorado Springs and environs, and also the steam plant for Colorado Springs only; The Colorado Springs Light & Power Company, which operated the gas plant.

The Colorado Springs Light, Heat & Power Company represents a capitalization of $2,000,000.00, divided into $1,000,000.00 preferred stock, 6 per cent, non-accumulative, and $1,000,000.00 common stock, and an authorized issue of $3,500,000.00 of 5 per cent bonds. Of the bond issue $1,300,000.00 was reserved and placed in trust to retire the underlying bonds of the consolidated companies, viz.: $1,000,000.00 5%, due 1920, of The Colorado Springs Electric Company, and $300,000.00 5%, due 1919, of The Colorado Springs Light & Power Company.

The plant investment of the three companies forming the consolidation showed a book value on June 25, 1910, as follows:

The Colorado Springs Light & Power Company (Gas)	$ 766,485.24
The Colorado Springs Electric Company (Electricity and Steam)	2,505,008.26
The Pike's Peak Hydro-Electric Company (Hydro)	1,389,474.75
Total	$4,660,968.25

The book value of the Defendant Company on December 31, 1914, was as follows:

Gas	$ 849,775.24
Electric	3,888,615.20
Steam	140,000.00
Total	$4,878,390.44

On December 3, 1914, the Departments of the Defendant Company had the following number of consumers:

Gas	3,755
Electricity	7,061
Steam	87
Miles of gas mains	56 miles

The Defendant Company sells electricity for domestic, commercial and power purposes, gas for cooking, illuminating and heating purposes, and steam for heating purposes.

ELECTRICAL PROPERTY.

The Colorado Springs Light, Heat & Power Company retails and wholesales electric energy for domestic, commercial and power purposes within the cities and towns of Colorado Springs, Colorado City, Manitou and suburbs, serving communities consisting of about 50,000 people. The City of Colorado Springs has a population of about 30,000 people in the winter season, and

about 40,000 people in the summer season, and the town of Manitou is primarily a summer resort, with a population fluctuating between 1,000 people in the winter season and 4,500 people in the summer season; consequently many business houses and hotels are closed during the winter, considerably lessening the revenues of the Defendant Company during this period of the year. Colorado Springs and Colorado City are contiguous, and Manitou is located about three miles west of Colorado City.

VALUATION.

The Engineering Staff of the Commission, prior to the hearing at Colorado Springs, made a complete appraisal of the properties of The Colorado Springs Light, Heat & Power Company. (2) In this valuation both the cost new and the depreciated present value of the property were estimated and tabulated. Actual prices, so far as practicable and reasonable, are taken from the Company's books, and cover the property of the Defendant Company in use and useful for electric, gas making and steam heating purposes.

ELECTRIC DEPARTMENT OF THE COLORADO SPRINGS LIGHT, HEAT & POWER COMPANY.

Classification.	Cost New.	Present Value.
A—Land	$ 11,825.00	$ 11,825.00
B—Buildings	263,102.00	244,255.00
C—Station Equipment	443,648.00	338,757.00
D—Distribution	496,559.00	383,626.00
E—General Equipment	22,244.00	18,311.00
F—Stores and Supplies	24,940.00	24,940.00
G—Non-operating Property	15,200.00	11,966.00
H—Working Capital	45,000.00	45,000.00
Total	$1,322,518.00	$1,078,680.00

HYDRO-ELECTRIC PLANT.

Classification.	Cost New.	Present Value.
A—Land	$ 3,575.00	$ 3,575.00
B—Buildings	30,065.00	29,469.00
C—Pipe Lines, Reservoirs, Flumes, etc.	161,610.00	119,369.00
D—Station Equipment	64,780.00	48,551.00
E—General Equipment	None	.....
F—Tools and Implements	1,826.00	1,457.00
G—Value of Water Power	.....	.....
Total	$ 261,856.00	$ 202,421.00
Totals:		
Electric Department	$1,322,518.00	$1,078,680.00
Hydro-Electric Plant	261,856.00	202,421.00
Grand Total	$1,584,374.00	$1,281,101.00

STATEMENT OF OVERHEAD EXPENSES, ELECTRIC AND HYDRO-ELECTRIC PROPERTY.

	CLASSIFICATION OF PROPERTY.				
	Land	Mains, Services & Meters	Buildings	Plant Equipment	General Equipment
Inventory Omissions	0	2	1	1½	½
Engineering	1	3	5	5	0
General Supervision	0	3	3	3	1
Interest during Construction.	7	2½	3	3	0
Insurance	0	½	1	1	½
Legal Expenses	2	1	½	½	0
General Contingencies	0	2	1	1	0
Totals	10	14	14½	15	2

The above summary statements of the electrical and hydro properties, and the statement of overhead charges, were prepared by F. J. Rankin, Electrical Engineer for the Commission. The above statements of valuation include the overhead charges. (3) Mr. Rankin also included in the above summaries of the valuation of the electric and hydro properties of this Defendant Company ten per cent as contractors' profit on the particular items which must necessarily include work done under contract.

On the 31st day of August, 1915, the Defendant Company, through its Engineer, P. B. Rice, made the following additional claims, which were either not considered by Mr. Rankin or not allowed by him in his valuations of the property of the Defendant Company.

CLAIMED BY MR. RICE.

Property owned by Defendant Company not included in Engineer's appraisal:

	Cost of Reproduction	Depreciated Value
1,040 dead electric services, at $10.00	$ 10,400.00	$ 8,008.00
Transformers, omitted	7,875.00	6,142.50
Substations apparatus on customers' premises, omitted by Mr. Rankin	5,637.00	4,509.00
	$ 23,912.00	$ 18,660.10
Deduct Woodmen's Home line, included in Rankin report through error, said line not being the property of Defendant Company	5,894.45	5,157.64
	$ 18,017.55	$ 13,502.46
Rights of Way	12,000.00	12,000.00
Preliminary organization expense item, not included in Mr. Rankin's overhead charges, for the entire properties	125,000.00	125,000.00
Option on Empire Land & Water Company	130,000.00	130,000.00
Value of water power derived by the Company through the hydro plant at Manitou	200,000.00	200,000.00
Going concern value for the entire properties	400,000.00	400,000.00

Mr. Rice testified that he had made a careful examination of the report of the Commission's Engineer, and the properties valued therein had been, in his opinion, fairly appraised.

The summary valuation of the electric property of the Defendant Company prepared by Mr. Rankin is $1,078,680.00. At the hearing before the Commission on August 31st, 1915, Mr. Rankin testified that, in his opinion, $10,000.00 should be added to this total for rights of way, and that the sum of $13,502.00, which is the present value of certain items unintentionally omitted by him in his original report to the Commission, should also be added to his summary of valuation of the electric property.

The summary of valuation of the hydro electric property of this Defendant Company, as prepared by Mr. Rankin, is $202,421.00, and should also be added to the summary of valuation of electric property as prepared by him, which makes a combined total of $1,304,603.00.

(4) Under the sub-head of "Non-operating property" in the above summary of valuation, we find an item of $11,966.00, which

represents the present value of a 500 K. W. vertical steam turbine. Mr. Rankin testified that in his opinion this turbine was not in use or useful, and therefore should be deducted from his summary of valuations, making a grand total of $1,292,638.00, which includes the sum of $45,000.00 as working capital, and excludes any allowance for preliminary organization and development expense, Empire Land & Water Company option, water power and going value.

GOING VALUE.

(5) The proper amount to be allowed for "going value" is very difficult to determine and is not susceptible of measurement in dollars and cents. That there is a difference between a plant with a developed business and one without it, and that there is an added value on this account to be taken into consideration in making a valuation for rate making purposes seems to be generally conceded. Early deficits from operation have in many cases been taken as a measure of the proper amount to be allowed for this item, and this theory seems to be in accord with a decision rendered by the New York Court of Appeals by Justice Miller, who states:

> "I define going value for rate purposes, as involved in this case, to be the amount equal to the deficiency of net earnings below a fair return on the actual investment due solely to the time and expenditures reasonably necessary and proper to the development of the business and property to its present stage, and not comprised in the valuation of the physical property."

We believe that such an amount as indicated by early deficits is only an indication, and not a measure of the amount to be allowed, for the reason that this theory, if strictly followed, places a premium on properties poorly conceived and managed and does not properly reward good management. In many cases, and in this one in particular, it is impossible to learn from the records what the early deficits from operation have been.

We have considered this property as a going concern, and therefore have made such allowance for this item as we deem just.

DEPRECIATION.

There was little controversy at the hearings in this case over the annual rates of depreciation. (6) The Commission's Engineer, after applying various rates of depreciation to the different items of depreciable property, found the composite depreciation of the electric property to be 4.25% of the cost new of its depreciable property; the composite depreciation of the Hydro property to be 2.8% of the cost new of its depreciable property:

(7) and the composite depreciation of the Gas property to be 3% of the cost new of its depreciable property.

The above are the rates to be used in providing for depreciation on a straight line basis. The amounts to be set aside annually, are as follows:

Gas	$20,000.00
Hydro	6,300.00
Electric	52,000.00

(8) We have used for this case, without approving or disapproving, the straight line method of providing for depreciation. While the sum to be set aside annually under what is known as the sinking fund method, is a relatively smaller operating charge than the amount required under the straight line method, the rate of return, when using the sinking fund method, must be based on cost of reproduction, and not on depreciated value. We have used the straight line method of providing for depreciation, and have based the rate of return on the depreciated, or present value.

Thus, while the allowance to be made for depreciation in computing a fair rate schedule, is smaller under the sinking fund method, the rate of return is based on a higher valuation, so that there would seem to be little difference between the two, so far as the public is concerned.

It should be noted, however, that the straight line method reflects most closely the practical conditions under which utility properties are generally managed.

WORKING CAPITAL.

(9) Working capital should be an amount sufficient to take care of the operating expenses of the company until the revenue from operation is sufficient for that purpose, and should include in addition stores and supplies, merchandise for sale, coal in storage and coal for immediate use, and a general cash balance for which the customer is not directly responsible. Stores and supplies, merchandise, and coal in storage, were included as part of the inventory in this case so that no allowance should be made for these items. (10) The Commission's Engineer placed the allowance to be made for working capital at $45,000.00. We believe that under the conditions this is excessive, and find $30,000.00 a sufficient amount for this purpose.

OPERATING REVENUES AND EXPENSES.

Mr. F. W. Herbert, statistician for the Commission, introduced into evidence the comparative summary of the net earnings of the electric and hydro-electric properties from June 30, 1910, to June 30, 1915, and the same are here shown:

COMPARATIVE SUMMARY OF NET EARNINGS, ELECTRIC PROPERTY, JUNE 30, 1910, TO JUNE 30, 1915.

	6 mos. 1915	1914	1913	1912	1911	6 mos. 1910
Income	$209,635.23	$421,894.74	$416,122.18	$422,251.43	$426,057.13	$229,424.85
Expenses	99,605.36	199,674.05	188,177.57	178,602.47	184,370.95	101,227.81
Net Earnings	$110,029.87	$222,220.69	$227,944.61	$243,648.96	$241,868.18	$128,197.04

We have averaged the net earnings for the years 1911, 1912, 1913 and 1914, and have arrived at an average net return of $233,875.00, and, deducting from this amount the sum of $52,000.00, the annual depreciation reserve, we find the average net return, less depreciation, to be $181,875.00.

Following is a detailed table of the operating revenues and expenses of the electric properties of the Defendant Company as found on the books of the corporation, and as introduced into evidence by Mr. Herbert, but which includes a deduction made by Mr. Herbert for an erroneous charge made on the electric expenses properly chargeable to steam expenses:

	6 mos. 1915	1914	1913
Operating Revenues—			
Municipal St. Ltg. Arc	$ 10,945.38	$ 21,634.00	$ 21,473.80
Municipal St. Ltg. Inc	4,448.12	10,846.15	10,075.65
Com'l Flat Rate Ltg	2,215.40	5,676.42	5,980.37
Com'l Metered Ltg	105,776.11	216,146.51	215,794.59
Com'l Metered Power	83,528.73	164,189.79	162,247.51
Total Sales	$206,913.74	$418,492.87	$415,571.92
Breakdown service	.....	196.66	.....
Other Misc. Elec. Revenue	83.30	499.80	499.80
Forfeited Discounts	942.51	1,285.17	1,364.22
Total	$207,939.55	$420,474.50	$417,435.94
Less allowances and rebates	300.01	1,144.72	2,346.23
Less corrections of overchgs	301.08	609.93	715.01
	$ 601.09	$ 1,754.65	$ 3,061.24
Total gross Revenue, Electric sales	$207,338.46	$418,719.85	$414,374.70
Misc. Revenue, Mdse. jobbing, Rentals, etc.	2,296.77	3,174.89	1,747.48
Total Revenue	$209,635.23	$421,894.74	$416,122.18
Operating Expenses: Generating—Steam—			
Fuel	$ 15,340.77	$ 28,750.42	$ 36,750.81
Fuel Handling Expense	476.52	954.70	1,377.38
Boiler Labor	3,599.90	6,982.19	8,847.04
Engine Labor	1,938.18	3,943.30	4,911.04
Electric Labor	1,332.15	2,607.52	2,616.31
Water for Power	949.85	1,808.78	2,497.17
Lubricants	215.82	406.89	556.53
Production supplies	43.06	171.31	87.72
Station Expense	326.03	1,088.73	1,127.27
Repairs Furnaces and Boilers	415.35	1,255.80	1,153.15
Repairs Boiler Apparatus	4.31	286.24	35.87
Repairs Steam Access	237.79	674.06	588.67
Repairs Recip. engines	383.04	682.11	1,657.45
Repairs Steam Turbines	104.91	322.38	95.89
Repairs Other Sta. Eng. Equip	100.64	169.27	200.35
Repairs Power Pl. Bldgs	179.19	683.03	80.53
Current for Condenser motor	2,367.60	3,941.91	5,237.80
Repairs Elec. Generators	36.60	95.71	19.43
Repairs Access. Elec. Equip	74.63	539.32	172.11
Repairs Station Tools and Imp	4.27	22.92	40.13
Repairs Misc. Sta. Equip	.....	30.97	3.04
Station Superintendence and care	702.32	1,530.28	1,858.70
Total Cost Gen	$ 28,832.93	$ 56,957.84	$ 69,908.31
Sub. A	22,798.03	40,445.51	41,356.92
Elec. Other Sources, Hydro	4,858.37	8,981.67	9,949.45
Green Mtn. Falls Dist	87.50	403.75	349.14
	$ 56,576.83	$106,788.77	$121,563.82

	6 mos. 1915	1914	1913
Transmission Expense—			
Trans. Pole and Fixture Repairs	$ 396.65	$ 1,834.59	$ 1,272.30
Overhead Trans. System Repairs	223.04	1,101.50	724.83
Sub. Station Bld. Repairs	.....	5.00	60.01
Sub. Station Equi. Repairs	106.55	72.07	58.98
Sub. Station Labor	396.44	808.07	875.08
Sub. Station Supplies and Exp	94.39	265.97	205.02
	$ 1,217.07	$ 4,087.20	$ 3,196.22
Distribution Expense—			
Dist. Pole and Fixture Repairs	$ 1,259.55	$ 2,511.18	$ 2,359.42
Overhead Dist. Repairs	615.84	1,418.43	1,283.94
Electric service Repairs	443.96	795.86	585.70
Electric Meter Repairs	469.87	947.89	850.53
Transformer Repairs	132.03	1,140.23	819.25
Electric Meter Operations	1,516.82	3,124.24	2,529.29
Setting and Removing Meters	582.52	1,551.77	1,440.93
Setting and Removing Transformers	386.16	649.84	916.28
	$ 5,406.75	$ 12,139.44	$ 10,785.34
Utilization Expense—			
Municipal St. Arc Labor	$ 832.29	$ 1,689.03	$ 2,405.70
Municipal St. Arc Repairs	675.32	1,689.10	1,806.98
Municipal St. Arc Supplies	279.66	685.62	871.34
Municipal St. Incan. Renewals	309.20	407.14	318.96
Municipal St. Incan. Repairs	54.51	28.29	30.07
Commercial Arc Labor	181.36	377.51	354.22
Commercial Arc Repairs	34.51	41.51	61.57
Commercial Arc Supplies	28.18	43.83	69.66
Commercal Incan. Renewals	85.13	197.24	337.88
Inspection Consumers' Premises	528.41	94.37	287.30
Repairs Consumers' Installations	709.25	1,320.42	1,443.06
	$ 3,717.82	$ 6,574.06	$ 7,986.74
Generating Steam—Sub. A—			
Fuel for Steam	$ 14,133.16	$ 23,305.45	$ 25,135.73
Fuel Handling Expense	853.36	1,590.89	1,700.76
Boiler Labor	2,753.05	5,333.15	5,182.56
Engine Labor	1,532.24	3,063.11	3,100.99
Electric Labor	383.16	766.66	749.74
Water for Power	768.43	1,134.30	877.95
Lubricants	107.31	194.53	206.61
Production Supplies	23.18	74.27	46.77
Station Expense	742.52	1,717.37	1,683.19
Repairs Furnaces and Boilers	586.26	1,298.55	909.82
Repairs Boiler Apparatus	7.01	216.07	13.78
Repairs Steam Access	118.38	106.28	207.79
Repairs Recip. Engines	6.35	26.70	79.40
Repairs Steam Turbines	52.32	11.42	1.61
Repairs Other Sta. Engines	7.25	.....	.....
Repairs Power Pl. Bldgs	120.21	519.96	641.41
Repairs Elec. Generators	.....	317.71	10.76
Repairs Access. Elec. Eq	228.34	254.22	94.24
Repairs Sta. Tools and Imp	152.48	8.80	230.74
Repairs Misc. Sta. Eq	.....	.....	34.68
Station Superintendence and care	223.02	486.07	469.91
	$ 22,798.03	$ 40,445.51	$ 41,356.92
Generating—Water Power—			
Engine Labor	$ 1,104.63	$ 2,187.06	$ 2,009.92
Electric Labor	1,431.96	2,815.01	2,925.51
Lubricants	60.00	48.00	68.80
Production supplies	12.95	.....	.40
Station Expense	242.58	561.14	467.40
Care Takers	913.50	1,818.84	1,801.40
Repairs, Dams, Canals and Pipe Lines	442.20	607.62	1,998.83
Repairs, Turbines and Water Wheels	12.54	137.30	22.85
Repairs. Power Pl. Bldgs	38.56	109.04	11.60
Repairs, Elec. Generators	8.00	32.07	3.00
Repairs, Access. Elec. Eq	289.41	100.28	29.96
Repairs, Sta. Tools and Imp	2.50	24.69	9.50
Repairs, Mis. Sta. Equ	.....	18.71	4.63
Station Superintendence and care	299.54	521.91	595.65
	$ 4,858.37	$ 8,981.67	$ 9,949.45

Green Mtn. Falls Dist.—	6 mos. 1915	1914	1913
Engine Labor	$ 37.50	$ 150.00	$ 150.00
Electric Labor	37.50	150.00	150.00
Station Expense	.....	.88	4.63
Repairs Dams, Canal and Pipe Lines	.50	42.87	15.49
Superintendence and Care	12.00	60.00	60.00
	$ 87.50	$ 403.75	$ 349.14
Commercial Expense—			
Accounting	$ 902.94	$ 1,711.36	$ 1,789.01
Collecting	880.33	1,722.29	1,726.77
Meter Reading	1,590.46	3,049.16	3,375.09
Total Commercial Expense	$ 3,373.73	$ 6,482.81	$ 6,890.87
Promotion Expense—			
Promotion Management	$ 531.04	$ 1,580.10	$ 1,484.75
Demonstration and Other Promotion Expense.	1,099.30	2,996.28	2,636.86
Advertising	191.02	1,056.69	731.31
Canvassing and Soliciting	782.47	2,405.05	1,057.49
	$ 2,603.83	$ 8,038.12	$ 5,910.40
General and Misc. Expense—			
Salaries of General Officers	$ 3,589.85	$ 7,719.20	$ 7,326.04
Salaries of Office Clerks	1,239.62	2,836.11	3,216.14
Incidental Expense	169.46	235.48	365.39
General Office Supplies	405.84	748.53	796.37
Rent	1,532.50	2,879.67	2,614.32
General Stationery and Printing	551.62	1,343.51	1,771.08
Miscellaneous General Expense	1,876.60	3,975.30	4,132.11
Insurance	1,933.35	3,931.84	4,175.66
General Law Expense	2,031.00	5,933.20	2,947.26
Law Exp. in connection with damages	210.00	.....	.....
Accidents and Damages	210.00	1,200.00	1,800.00
Elect. Franchise Req	152.22	301.80	386.90
Store Expense	727.59	1,354.75	1,351.37
Uncollectible Bills	415.18	827.28	1,169.05
Taxes	24,042.62	46,883.44	23,374.18
Management, Auditing and Traveling	4,662.81	8,810.08	8,885.44
	$ 43,750.26	$ 88,980.19	$ 64,311.31
Grand Total	$116,646.29	$233,090.59	$220,644.70
Less Dupl. Elec. charges	3,332.24	5,463.05	6,985.52
Total Expense	$113,314.05	$227,627.54	$213,659.18
Interest on Consumers' Dep	102.18	166.51	202.57
	$113,416.23	$227,794.05	$213,861.75
Amount for steam charged in error	13,810.87	28,120.00	25,684.18
Total cost of electricity	$ 99,605.36	$199,674.05	$188,177.57

PRELIMINARY ORGANIZATION AND DEVELOPMENT EXPENSE.

(11) Mr. Rice testified that some allowance should be made for making a preliminary study of the proposition, the feasibility of the construction of the property, investigation of the market and of the character of the surrounding country, the cost of coal available, water powers, etc. According to Mr. Rice this expense should also include the item of organization, cost of printing prospectus, promoters' returns, cost of printing necessary bond and stock forms, and traveling expenses. According to his testimony it should also include the cost of financing, which should include the expense of stock salesmen, underwriting expense, bond commission, traveling expenses of bond and stock salesmen, and also expenses in connection with the obtaining of franchises.

He further testified that 5 per cent of the cost of reproduction of the property, or $125,000.00 would, in his opinion, be the proper allowance for the above items.

Mr. Rankin stated that he had not included in his valuation any allowance to cover the items mentioned, but in his letter of transmittal of his report called attention to the fact that some allowance should be made for this purpose. He further testified that considerable preliminary expense must have been incurred in connection with the electric and hydro electric property for making a preliminary study and investigation of the undertaking.

We have given careful study to the preliminary organization and development in connection with the electric and hydro properties, and have arrived at the conclusion, in view of the facts and conditions surrounding these properties, that the proper sum to be allowed for this purpose is $79,125.00.

WATER POWER.

The defendant corporation manufactures its electric energy through a steam generating plant located at Colorado Springs, and a hydro plant located at Manitou.

(12) We have arrived at the conclusion that the hydro plant is auxiliary to the steam plant at Colorado Springs, due to the fact that the steam generating plant is sufficiently large to carry the entire load of the Colorado Springs Light, Heat & Power Company, and also, taking into consideration the fact that the city of Colorado Springs is the owner of the water power derived by the defendant corporation through its hydro plant at Manitou, and that the said city of Colorado Springs has, in addition, the complete control of the use of said water power of the defendant corporation, and from the evidence introduced pertaining to this situation, we are convinced that the value of this water power to the defendant corporation consists of break-down service, and the decrease in the coal consumed at the steam generating plant of the defendant corporation.

The report of the engineer of the Commission in this case discloses the fact that the saving in coal effected by the use of the hydro plant is entirely offset by maintenance, operating expenses, and interest and depreciation on this plant, and that the water power used for this purpose is of no value, inasmuch as no saving is made by its use.

(13) The defendant corporation has an option on an alleged water-right which is known in this case as "The Empire Land & Water Company Option." The statistician of the Commission testified that the item of $7,800 appears on the books of the defendant company as an annual payment to the owner of said water power, as an interest payment on said option. The defendant company requests that we permit the item of $7,800 to be

carried in its operating expenses, or in lieu thereof, an allowance of $130,000 be made by us for this item in our valuation of the electric and hydro properties of the defendant. Mr. Rice, the engineer for the defendant company, testified that in his opinion, the item of $7,800 is a legitimate operating expense for the purposes of rate making, and that $130,000 is the value of the Empire Land & Water Company water-right.

We do not agree with Mr. Rice. This alleged water-right is not in use or useful. Mr. Rice was cross-examined by the Commission and the Honorable J. L. Bennett, city attorney of Colorado Springs, and the results obtained from the cross-examination, and the testimony of the Commission's engineer, convince us that The Empire Land & Water Company water-right is not used or useful, can never be used, and is without value to the defendant company.

We have therefore disallowed the item of $7,800, taken from the operating expenses of the defendant corporation, as well as the item of $130,000 claimed by the defendant company as the value of the alleged water-right.

FAIR VALUE OF ELECTRIC PROPERTY.

(14) After considering all of the evidence and testimony in the case bearing upon the value of the plant, and the cost to reproduce, the original costs, the investment, the present value, including preliminary and development costs, engineering and supervision, interest, insurance, organization and legal expense during construction, contingencies, working capital, and all other elements of value (tangible and intangible), and taking into consideration that the plant is in successful operation and a "going concern," the Commission finds the fair value of the electric and hydro property of The Colorado Springs Light, Heat & Power Company, for the purposes of determining reasonable and just rates in this case, to be $1,481,762.00. We therefore find that The Colorado Springs Light, Heat & Power Company is earning 12.27 per cent per annum on the fair and reasonable value of its electric and hydro properties.

PRESENT RATES.

We are of the opinion that the rates and charges for electricity, sold by this Defendant corporation, now in effect, and filed with the Commission, are excessive and unreasonable.

PRESENT SCHEDULE OF ELECTRIC RATES AND CHARGES OF DEFENDANT COMPANY—RULES AND REGULATIONS.

1. *The Company will place upon the premises at its own expense meter or meters, which shall be and remain its prop-*

erty. All wiring shall be done at the expense of the customer subject to the approval of the Company, but the Company assumes no responsibility with reference thereto.

2. *The customer is strictly forbidden to interfere with the meters and other appliances of the Company. In case of defective service, notice in writing should be served on the Company immediately.*

3. *It is expressly stipulated by the Company and agreed to by the customer, that the Company shall not be liable for damages caused by interruption to the supply of current or by defective wiring.*

4. *Customers are not permitted to use the current for any purpose or in any place other than as provided for in this contract, without first having received the written consent of the Company.*

5. *The inspectors, agents and employes of the Company are strictly forbidden to demand or accept any personal compensation for services rendered.*

6. *The Company is hereby given the right to enter upon the premises of the customer at all reasonable times for the purpose of inspecting, repairing or replacing all appliances used in connection with its current, and removing the same on the termination of this contract or the discontinuance of the service.*

7. *If the seal of the Company's meter is broken, or if the meter from any cause does not properly register, the customer shall be liable for an average bill.*

8. *The Company reserves the right to discontinue its service without notice in case the customer is in arrears or fails to comply with these rules or regulations.*

9. *Neither party shall be held liable for any failure or delay in performing any of the things undertaken by it in this agreement, in case such failure or delay is caused by strikes, the act of God, or unavoidable accidents or contingencies beyond its control and in no manner due to any fault, neglect or omission on its part.*

10. *No promises, agreements or representations of any canvasser or employe of the Company shall be binding upon the Company unless the same shall have been incorporated in this contract in writing, before the same is signed and approved.*

11. *No other power or lighting service shall be introduced while this contract remains in force without previous notice to the Company in writing; and its consent in writing thereto obtained.*

No person should be permitted to inspect or remove any of the Company's appliances, unless he can show the identification card of The Colorado Springs Light, Heat & Power Company, which is supplied to every employe.

If meter is disconnected for non-payment of bill, a charge of $1.00 *will be made to cover the cost of reconnection.*

Bills are due on either the tenth or twenty-fifth of each month at the office of the Company. On all bills rendered on or about the first of each month a discount of one cent per K.W. electricity will be allowed for payment on or before the tenth of same month. On all bills rendered on or about the fifteenth of each month a discount of one cent per K.W. electricity will be allowed for payment on or before the twenty-fifth of each month. After the discount periods the gross rate of 11 *cents will be charged for electricity.*

Deposits: A deposit sufficient to cover two months' estimated bill is required of non-property owners, or consumers whose credit has not been established. Interest at the rate of 5% *per annum is paid on such deposits.*

Connection Charge: A connection charge of $2.00 *per meter is made for installations connected for a period of three months or less.*

Extensions of Lines or Mains: Extensions of lines or mains are made when the gross income earned on such extensions for the first two years equals or exceeds the cost of the extension. When this income is not assured guarantees are taken from the consumers served equal to this amount, and covering a two-year period. Any additional income accruing on this extension is applied on the above guarantees.

LIGHTING.

Residence Lighting: Eleven (11c) *cents per kilowatt hour, less* 1c *per kilowatt discount if paid on or before the expiration of the discount period, making the rate* 10c *net. Minimum guarantee per month,* $1.15.

Commercial Lighting: Schedule of rates following: Minimum guarantee $3.00 *per K.W. connected. This rate applies to stores, barber shops, cafes, etc. Schedule as follows:*

"For an average use of 60 *hours per month of the lamps connected, at eleven* (11c) *cents per kilowatt hour and for any current in excess of said average use of* 60 *hours per month of the lamps connected, at six* (6c) *per kilowatt hour."*

"A discount of one (1c) *cent per kilowatt hour will be allowed on all current consumed on the eleven* (11c) *rate and a discount of ten* (10%) *per cent on all current consumed on the six cent* (6c) *rate, if payment is made on or before the discount date of the month succeeding that in which the current is consumed."*

Eleven (11c) *cents, less forty-five* (45%) *per cent discount: This rate is given to commercial customers where lights are used in the day time, all night, etc., such as picture theaters, cafes, etc. Minimum guarantee* $3.00 *per K.W. connected.*

Commercial Signs: Metered, eleven (11c) cents, less forty-five (45%) per cent discount, with a minimum guarantee equal to flat rate basis.

As per lighting schedule: With a minimum guarantee of $3.00 per K.W. connected.

Flat Rate: Sign, Window and Display lighting. Rate is connected load × 5 hours per day × 30 days × 6c = Flat Rate per month; 10% discount. Signs controlled by Company, burning from dusk to 11 P. M. Free renewals for all carbon lamps and tungsten lamps in 25 watt sizes and above.

Picture Shows and Theaters: Special decorative lighting for exterior of theaters and picture shows, operating from dusk to 11 P. M. Three (3c) cents per K.W.H.

Clubs: When Club Rooms are kept open every evening: Six and one-half (6½c) cents per K.W.H., with a discount of one-half (½c) cent per K.W.H. for prompt payment. Minimum guarantee of $3.00 per K.W. connected.

Officers and Directors: Officers and directors of the Company and stockholders holding one hundred (100) or more shares of stock, three (3c) per K.W.H. No minimum guarantee.

Employes of Company: Regular rate, without any minimum guarantee.

CAMP STRATTON (NEAR CHEYENNE CANON).

Residence Lighting: Sixteen (16c) cents per kilowatt hour, less 20% discount. Minimum guarantee $1.50 per month. This addition owned by Broadmoor Land Company, who leases lots for Summer Cottages. Right of way granted by Broadmoor Land Company for distribution lines, in consideration of the same rates being charged for electric current as are charged by Broadmoor Land Company, whose system adjoins.

CITY OF COLORADO SPRINGS—MUNICIPAL.

Fire Stations, Lighting: Rate of two (2c) cents net.

Ornamental Lighting, Streets: Three (3c) cents net. City operates and maintains system. Three years' contract.

Arcs: 7½ amperes Series A. C., $66.00 per year, all night contract coincident with Franchise.

Flat: 80 c.p. tungsten, $2.50 per month; 150 watt tungsten, $3.75 per month. No contract. Maintained by the Company. All night schedule.

Police, Alley Lamps, Flat: (32 c.p. carbon) $2.50 per month. No contract. Maintained by the Company. All night schedule.

City Hall, Lighting: Furnished free. (Franchise provision.)

POWER.

The customer agrees to pay the fixed charge of 50c *per H.P. per month plus the amount of current as shown by meter measurements for the month as follows:*

7.0 *cents per K.W.H. for the first* 25 *K.W. hrs. or* $1.75 *for the first* 25 *K.W. hrs., and*

6.0 *cents per K.W.H. for additional K.W. hrs. above* 25 *to* 50, *or* $3.25 *for the first* 50 *K.W. hrs., and*

5.4 *cents per K.W.H. for additional K.W. hrs. above* 50 *to* 100 *or* $5.95 *for the first* 100 *K.W. hrs., and*

5.1 *cents per K.W.H. for additional K.W. hrs. above* 100 *to* 300 *or* $16.15 *for the first* 300 *K.W. hrs., and*

3.7 *cents per K.W.H. for additional K.W. hrs. above* 300 *to* 500 *or* $23.55 *for the first* 500 *K.W. hrs., and*

3.0 *cents per K.W.H. for additional K.W. hrs. above* 500 *to* 750 *or* $31.05 *for the first* 750 *K.W. hrs., and*

2.8 *cents per K.W.H. for additional K.W. hrs. above* 750 *to* 1,500 *or* $52.05 *for the first* 1,500 *K.W. hrs., and*

2.6 *cents per K.W.H. for additional K.W. hrs. above* 1,500 *to* 2,500 *or* $78.05 *for the first* 2,500 *K.W. hrs., and*

1.8 *cents per K.W.H. for additional K.W. hrs. above* 2,500 *to* 3,500 *or* $96.05 *for the first* 3,500 *K.W. hrs., and*

1.1 *cents per K.W.H. for additional K.W. hrs. above* 3,500 *to* 5,000 *or* $112.55 *for the first* 5,000 *K.W. hrs., and*

0.9 *cent per K.W.H. for additional K.W. hrs. above* 5,000 *to* 15,000 *or* $202.55 *for the first* 15,000 *K.W. hrs., and*

0.85 *cent per K.W.H. for additional K.W. hrs. above* 15,000 *to* 50,000 *or* $500.05 *for the first* 50,000 *K.W. hrs., and*

0.8 *cent per K.W.H. for additional K.W. hrs. above* 50,000 *to* 100,000 *or* $900.05 *for the first* 100,000 *K.W. hrs., and*

0.77 *cent per K.W.H. for additional K.W. hrs. above* 100,000.

It is hereby understood that said fixed charges are based on the connected load at the date of the execution of this contract and that should the connected load be increased or decreased at any time during the life of this contract, the fixed charges will be increased or decreased accordingly. The fixed charge is subject to 10% *discount in accordance with Paragraph* 5 *of this contract.*

The rates as per meter are net.

Fixed charge fifty (50c) *cents per H.P. per month.*

Minimum guarantee One ($1.00) *Dollar per H.P. per month. In no case less than* $2.00 *per month per consumer.*

Individual Drive: For machine and wood working shops having a connected load of 50 H.P. and above, where individual motor drive is used, fixed charge and minimum guarantee is based on (50%) fifty per cent of the horse power connected.

SPECIAL CLASSIFICATIONS.

Regular Rates, Rectifier Rates, Automobile Charging: Eleven (11c) cents per K.W.H., less 45% discount. Minimum guarantee $5.00 per month. (30 ampere rectifier.)

Cooking and Heating, Home Laundries: Eleven (11c) cents per K.W.H., less 54% discount. Minimum guarantee $1.50 per month for the first H.P. connected and $1.00 per month per H.P. over that.

Refrigeration Rate (Off-Peak Rate): Three (3c) cents net per K.W.H. Minimum guarantee $1.00 per month per H.P. connected. Consumer agrees not to use power during the following hours:

January	1-31	5:00	*to*	10:00	*P. M.*
February	1-15	5:15	*to*	10:00	*P. M.*
February	16-29	5:30	*to*	10:00	*P. M.*
March	1-15	6:00	*to*	10:00	*P. M.*
March	16-31	6:15	*to*	10:00	*P. M.*
April	1-15	6:30	*to*	10:00	*P. M.*
April	16-30	6:45	*to*	10:00	*P. M.*
May	1-15	7:00	*to*	10:00	*P. M.*
May	16-31	7:15	*to*	10:00	*P. M.*
June	1-30	7:30	*to*	10:00	*P. M.*
July	1-31	7:30	*to*	10:00	*P. M.*
August	1-15	7:00	*to*	10:00	*P. M.*
August	16-31	6:30	*to*	10:00	*P. M.*
September	1-15	6:15	*to*	10:00	*P. M.*
September	16-30	5:45	*to*	10:00	*P. M.*
October	1-15	5:30	*to*	10:00	*P. M.*
October	16-31	5:15	*to*	10:00	*P. M.*
November	1-30	5:00	*to*	10:00	*P. M.*
December	1-31	5:00	*to*	10:00	*P. M.*

IRRIGATION RATES.

$1.00 *per H.P. fixed charge—10% discount.*
1.00 *per H.P. minimum guarantee.*
.03 *Net per K.W. for the first* 2,000 *K.W.*
.02¾ *net per K.W. for the next* 2,000 *K.W.*
.02½ *net per K.W. for the next* 5,000 *K.W.*
.02¼ *net per K.W. for the next* 5,000 *K.W.*
.02 *net for the next* 14,000 *K.W. or over.*

Electric Garages—Battery Charging, Light and Power: Regular power rate schedule; lighting included on account of long hours consumption.

Dry Goods and Department Stores, Light and Power: Five (5c) *cents net per K.W.H. Minimum guarantee* $500.00 *per annum. 5 years' contract.*

Laundries, Using Electric Irons: Four (4c) *cents net per kilowatt hour for lighting and power. Minimum guarantee three* ($3.00) *dollars per month per kilowatt connected.*

Emergency or "Break-Down" Service: Eleven (11c) *cents per kilowatt hour, less one* (1c) *cent per kilowatt hour for prompt payment. Minimum guarantee One* ($1.00) *Dollar per month per horse power connected or its equivalent, and in no case less than one and* 15/100 ($1.15) *dollars per month net for lighting and two* ($2.00) *Dollars per month net for power.*

(15) The Electrical Department of the defendant corporation has in effect many special rates and privileges, which are partially due to circumstances not within the control of the Defendant, but resulting, nevertheless, in an illegal discrimination favoring numerous consumers. These special and discriminatory rates must be discontinued at once.

(16) It has also come to the attention of the Commission that one G. A. Taff is furnished with electricity by the Defendant Company without a charge being made therefor; this service having been provided for in a contract entered into between the Defendant corporation and Mr. Taff at the time that the said Taff sold certain properties to this Defendant corporation. We are of the opinion that this is, in effect, an illegal discrimination, and the Defendant corporation is hereby instructed to collect from the said G. A. Taff, in moneys, for all electric energy furnished to him by the said Defendant corporation from and after the date of this order, in accordance with the schedule of rates and charges as hereinafter specified.

(17) Officers, directors, stockholders and employes of the Defendant corporation must be shown no favoritism as to rates and charges, and rules and regulations surrounding the same, and the Defendant corporation is instructed to collect from each officer, director, stockholder and employe, in moneys, for all electric energy furnished to them and each of them by the said Defendant corporation from and after the date of this order, in accordance with the schedule of rates and charges as hereinafter specified.

NEW RATES.

(18) Under our instructions the Electrical Engineer of the Commission has prepared the following schedule of rates and charges, the revenues from which will yield a return in excess of 7½ per cent per annum upon the present value of the electric

and hydro properties of the Defendant corporation as found by this Commission.

IT IS THEREFORE ORDERED that the rates and charges, which are to be hereafter observed and enforced by The Colorado Springs Light, Heat & Power Company, shall be as follows:

GENERAL POWER SERVICE.

Rate: 6.66 cents per K.W.H. for the first 30 hours' average monthly use of the maximum demand.

3 cents per K.W.H. for the next 60 hours' average monthly use of the maximum demand.

1 cent per K.W.H. for all current consumed in excess of 90 hours' average monthly use of the maximum demand.

Determination of Maximum Demand: The maximum demand shall be computed as 90 per cent of the full load rating of motor or motors, but no maximum demand shall be figured as less than 500 watts. For installations in excess of 15 horse-power where individual drive is used, the maximum demand shall be figured as 50 per cent of the full load rating of the motors and other energy consuming devices.

Prompt Payment Discount: A discount of 10% on the consumption billed at the 6.66 cent rate will be allowed on monthly bills paid on or before 10 days after their respective dates.

Minimum Charge: The Consumer agrees to pay the company a minimum monthly charge of $1.50 for the first two horse-power or less, and 75c for each additional horse-power or fraction thereof. For installations in excess of 15 H.P. using individual drive the minimum monthly charge will be based on 50% of the connected load in horse-power.

Terms and Conditions: The Consumer agrees to be responsible for service rendered until 15 days after notice in writing is mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in his application, nor to change the size or number of motors without first giving notice to the company of his intention to do so.

The Consumer agrees that no other electric service shall be introduced or used in connection with the equipment supplied hereunder, without obtaining the written consent of the company.

In case the Consumer fails to comply with the terms of this schedule, or the rules of the Company, the Company may, on 15 days' written notice, discontinue its service and remove its property.

DIRECT CURRENT POWER SERVICE.

Rate: 7c per K.W.H. for the first 30 hours' average monthly use of the maximum demand.

3c per K.W.H. for the next 60 hours' average monthly use of the maximum demand.

1c per K.W.H. for all current consumed in excess of 90 hours' average monthly use of the maximum demand.

The maximum demand shall be determined in the same manner as for general power service.

A discount of 10% on the consumption billed at the 7 cent rate will be allowed on monthly bills paid on or before 10 days after their respective dates.

The minimum charge for this class of service shall be determined in the same manner as for general power service.

The terms and conditions for this class of service shall be the same as for general power service.

The company reserves the right to discontinue direct current service, at any time, upon the approval and consent of the State Public Utilities Commission of Colorado.

COMMERCIAL LIGHTING SERVICE.

Rate: 9c per K.W.H. for the first 30 hours' average use per month of the maximum demand.

4c per K.W.H. for the next 60 hours' average use per month of the maximum demand.

2c per K.W.H. for all current consumed in excess of 90 hours' average monthly use of the maximum demand.

Determination of Maximum Demand: The total installation is to be determined by an actual inspection upon the premises, but no maximum demand is to be figured as less than 500 watts.

The maximum demand shall be figured as 70 per cent of the total installation, not including irons, heating devices, vacuum cleaners, fans and small utility motors not exceeding one-fourth horse-power in size.

Prompt Payment Discount: A discount of 1 cent per K.W.H. on the consumption billed at 9 cents will be allowed on all monthly bills paid on or before 10 days after their respective dates.

Minimum Charge: The Consumer agrees to pay the company a minimum charge of not less than $1.00 per month per K.W. connected.

Terms and Conditions: The Consumer agrees to be responsible for service rendered until 15 days after notice in writing is mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in this application, nor to change the size or number of lamps or devices without first having obtained the written consent of the company.

The Consumer agrees that no other electric service shall be introduced or used in connection with the equipment supplied hereunder, without previous written consent of the company.

In case the consumer fails to comply with the terms of the application or the rules of the company, the company may, on fifteen days' written notice, terminate this agreement, discontinue its service and remove its property.

RESIDENCE LIGHTING.

Rate: 10c per K.W.H. for all current consumed during the month.

Prompt Payment Discount: A discount of 15 per cent on all current used will be allowed on all bills paid on or before 10 days from their respective dates.

Minimum Charge: The Consumer agrees to pay the company a minimum charge of not less than $1.00 per month per meter connected.

Terms and Conditions: The Consumer agrees to be responsible for service rendered until three days after written notice is mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in this application, nor to change the size or number of lamps or devices without first having obtained the written consent of the company.

The Consumer agrees that no other electrical service shall be introduced in connection with the equipment supplied hereunder, without previous written consent of the company.

In case the Consumer fails to comply with the terms of the application or the rules of the company, the company may, on 15 days' written notice, terminate this agreement. discontinue its service, and remove its property.

SIGN AND DISPLAY LIGHTING.

Rate: 90c per month per 100 watts connected, burning from dusk to 11:00 p. m.

$1.40 per month per 100 watts connected, burning all night.

Prompt Payment Discount: A discount of 10% will be allowed on all bills paid on or before 10 days from their respective dates.

Terms and Conditions: The Consumer agrees to be responsible for service rendered until 15 days after notice in writing has

been mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in his application, nor to change the size or number of lamps without first obtaining the consent of the company.

EMERGENCY OR BREAK-DOWN SERVICE.

Rate: 6 cents per K.W.H. for all energy consumed.

Minimum Charge: The Consumer agrees to pay a minimum monthly bill of $1.00 per month per K.W. of maximum demand contracted for in addition to the above amount for all energy used.

Prompt Payment Discount: A discount of 10% on the portion of the bill rendered at 6c per K.W.H. will be allowed on monthly bills paid on or before 10 days from their respective dates.

Terms of Contract: One year, and thereafter until 15 days after the receipt by the Company of written notice from the consumer to discontinue the service.

Terms and Conditions: The Company may at any time install special apparatus to limit the demand of the consumer to the maximum demand contracted for.

REFRIGERATION AND OFF-PEAK—POWER SERVICE.

Rate: 3c per K.W.H. net; minimum guarantee $0.75 per month per horse-power connected. Consumer agrees not to use power during the following hours:

January	1-31	5:00 to 10:00 P. M.
February	1-15	5:15 to 10:00 P. M.
February	15-29	5:30 to 10:00 P. M.
March	1-15	6:00 to 10:00 P. M.
March	16-31	6:15 to 10:00 P. M.
April	1-15	6:30 to 10:00 P. M.
April	16-30	6:45 to 10:00 P. M.
May	1-15	7:00 to 10:00 P. M.
May	16-31	7:15 to 10:00 P. M.
June	1-30	7:30 to 10:00 P. M.
July	1-31	7:30 to 10:00 P. M.
August	1-15	7:00 to 10:00 P. M.
August	16-31	6:30 to 10:00 P. M.
September	1-15	6:15 to 10:00 P. M.
September	16-30	5:45 to 10:00 P. M.
October	1-15	5:30 to 10:00 P. M.
October	16-31	5:15 to 10:00 P. M.
November	1-30	5:00 to 10:00 P. M.
December	1-31	5:00 to 10:00 P. M.

Terms and Conditions: Same as for regular power service.

IRRIGATION SERVICE.

Rate: $1.00 per month per H.P. fixed charge, plus

3c per K.W.H. for the first 2,000 K.W.H.

2½c per K.W.H. for the next 5,000 K.W.H.

2c per K.W.H. for all energy used in excess of above amount.

Prompt Payment Discount: The fixed charge is subject to a discount of 10% if bills are paid on or before 10 days after their respective dates.

MUNICIPAL STREET LIGHTING.

Rate, All Night Schedule:

7.5 ampere series A. C. arcs	$66.00	per year
80 c.p series mazdas	24.00	per year
Police alley lamps, 80 c.p.	24.00	per year
150 watt series mazdas	45.00	per year

80 c.p. series mazdas, burning from dusk to midnight during the summer season, $2.00 per month for the season.

Ornamental street lighting, 3 cents net per K.W.H.

Terms and Conditions: The company will, except in the case of ornamental street lighting, furnish all lamps, wires, and other equipment required in rendering municipal street lighting service, and will maintain and operate the same.

Bills are to be paid in equal monthly instalments at the end of each month.

LARGE HOTELS—LIGHT AND POWER.

Rate: 2.1c per K.W.H. for the first 4,500 K.W.H. consumed per month.

1.75c per K.W.H. for all energy consumed in excess of the above amount.

Terms and Conditions: Available to all hotels having a monthly consumption in excess of 4,500 K.W.H.

High rate portion of bill subject to a discount of .1c per K.W.H. for prompt payment.

Optional Hotel Rate: Large light and power schedule.

LARGE LIGHT AND POWER SERVICE.

Rate: $2.25 per K.W. per month for installations having a maximum demand of 30 K.W. or more; plus an

Energy Charge of: 1 cent per K.W.H. for all energy used.

Determination of Maximum Demand: The consumer's maximum demand is to be determined by a maximum demand meter to be read monthly.

Minimum Charge: The Consumer must guarantee a maximum demand of 30 K.W. and agree to pay a minimum maximum demand charge of $60.00 per month.

Prompt Payment Discount: A discount of 25 cents per kilowatt from the demand charge will be allowed on monthly bills paid on or before 10 days after their respective dates.

ALTERNATING CURRENT, UNTRANSFORMED.

Rate: $1.25 per month per K.W. of maximum demand, plus an

Energy Charge of: .5c per K.W.H. for all energy used.

Minimum Charge: The Consumer must guarantee a minimum maximum demand of 1,000 K.W. and a minimum demand charge of $1,250 per month.

Terms of Contract: Five years, and thereafter until 30 days after the receipt by the Company of a written notice from the consumer to discontinue the service.

REDUCTION MILLS.

Rate: 95/100 cents net per K.W.H. for all current consumed for light and power.

Minimum Charge: None. Available only to consumer who will guarantee an annual load factor of 80% or higher.

Terms of Contract: Five years, and thereafter until 30 days after receipt of written notice by the company from the consumer to discontinue the service.

MUNICIPAL LIGHTING.

Rates and charges, and practices surrounding the same, pertaining to municipal lighting are tentatively approved, subject to further investigation and revision in the discretion of the Commission.

CHANGES IN RULES AND REGULATIONS.

A connection charge of $2.50 per month per meter to be made for all installations connected for a period of four months or less. Officials and employes of the company to pay regular rates. All rates to be equally applicable to Colorado Springs, Manitou, and suburbs.

A special discount from these schedules may, at the discretion of the company, be allowed to quasi-public institutions doing charity work.

The Commission finds that the rates and charges set forth in the above schedule are reasonable and just, and that the rates and charges heretofore charged by the Defendant corporation,

in so far as they are not in accordance with the above schedule, are unreasonable and unjust.

It Is Ordered that the above schedule of rates and charges shall become effective on the 1st day of January, 1916, and shall apply to all service furnished after said date.

GAS PROPERTY.

The Colorado Springs Light, Heat & Power Company manufactures and sells gas for illuminating, cooking and heating purposes, within the City of Colorado Springs and Colorado City.

APPRAISAL OF THE GAS PROPERTY BY THE ENGINEERING STAFF OF THE COMMISSION.

Classification.	Cost New.	Present Value.
A—Land	$ 12,838.00	$ 12,838.00
B—Buildings	21,272.00	13,669.00
C—Plant Equipment	142,359.00	114,044.00
D—Distribution	532,127.00	436,359.00
E—General Equipment	36,216.00	34,007.00
F—Non-operating property	1,085.00	666.00
G—Working Capital	22,500.00	22,500.00
	$768,397.00	$634,083.00

STATEMENT OF OVERHEAD CHARGES—GAS PROPERTY.

	CLASSIFICATION OF PROPERTY.				
Items—	Land	Mains, Services & Meters	Buildings	Plant Equipment	General Equipment
Inventory Omissions	0	2	1	1½	½
Engineering	1	3	5	5	0
General Supervision	0	3	3	3	1
Interest during Construct'n		2½	3	3	0
Insurance	0	½	1	1	½
Legal Expenses	2	1	½	½	0
General Contingencies	0	2	1	1	0
Totals	10	14	14½	15	2

The above summary statements of the gas properties of the Defendant corporation, and the statement of overhead charges, were prepared by F. J. Rankin, Electrical Engineer for the Commission. The statement of valuation includes the overhead charges. Mr. Rankin also included in the summaries of valuation of the gas properties of this Defendant Company 10 per cent contractors' profit on the particular items which must necessarily include such profits. The summary valuation of the Gas property prepared by him amounts to $634,083.00. Under the sub-head of non-operating property in the above summary we find an item of $666.00, which represents the present value of one Roots' exhauster, one 4 h.p. vertical engine, and one governor. Mr. Rankin testified that in his opinion these items were not in use or useful, and therefore should be deducted from his summary of valuations, making a total of $633,417.00, which includes the sum of $22,500.00 as working capital, and excludes any allowance for preliminary organization and development expense, and going value.

WORKING CAPITAL.

(19) The Commission will make an allowance for working capital in accordance with the reasoning heretofore expressed in this order, but are of the opinion that the sum of $22,500.00, as allowed by the Commission's Engineer on the gas properties, is excessive, and find the correct amount to be $15,000.00.

PRELIMINARY ORGANIZATION AND DEVELOPMENT EXPENSE.

(20) We have given careful thought and study to the item of preliminary organization and development expense pertaining to the gas property of the Defendant corporation, and have arrived at the conclusion that the sum of $20,000.00 should be allowed.

GOING VALUE.

We have considered this property as a "going concern" in accordance with the reasoning heretofore expressed in this opinion, and therefore have made such allowance for this item as we deem just.

DEPRECIATION.

The amount of annual depreciation to be set aside upon the gas property of the Defendant Company is $20,000.00, and is arrived at in accordance with the reasoning heretofore set forth in this opinion under the head of "Depreciation."

OPERATING REVENUES AND EXPENSES.

Mr. Herbert, Statistician for the Commission, introduced into evidence the comparative summary of the net earnings of the gas property from June 30, 1910, to June 30, 1915, and the same are here shown:

COMPARATIVE SUMMARY OF NET EARNINGS, GAS PROPERTY JUNE 30, 1910, TO JUNE 30, 1915.

	6 mos. 1915	1914	1913	1912	1911	6 mos. 1910
Income	$ 40,643.06	$ 94,460.93	$ 97,545.92	$ 97,542.89	$ 93,740.73	$ 48,872.84
Expenses	35,587.05	72,649.25	62,563.40	67,857.61	67,260.60	34,876.92
Net Earnings	$ 5,056.01	$ 21,811.68	$ 34,982.52	$ 29,685.28	$ 26,480.13	$ 13,995.92

We have averaged the net earnings for the years 1911, 1912, 1913 and 1914, and have arrived at an average net return of $28,239.90, and, deducting from this amount the sum of $20,000.00, the annual depreciation reserve, we find the average net return, less depreciation, to be $8,239.09.

Following is a detailed statement of the operating revenues and expenses of the gas property of the defendant company as found on the books of the corporation, and as introduced into evidence by Mr. Herbert.

INCOME—GAS DEPARTMENT.

	6 mos. 1915	1914	1913
Commercial Metered Lighting	.....	$ 5,368.80	$ 9,434.40
Commercial Heat	$ 36,489.24	81,944.98	81,350.37
Prepaid Gas	2,055.20	4,629.00	4,786.30
Total sales	$ 38,544.44	$ 91,942.78	$ 95,571.07
Meter Chgs. Min. Bills	1,168.55	1,969.95	1,940.00
Forfeited Discounts	341.45	583.67	674.24
	$ 40,054.44	$ 94,496.40	$ 98,185.31
Less allowances and rebates	184.00	244.75	578.11
Less correction of overchgs	28.05	238.44	180.78
	$ 212.05	$ 483.19	$ 758.89
Total Gross revenue Gas sales	$ 39,842.39	$ 94,013.21	$ 97,426.42
Misc. Revenue—jobbing and appliances	800.67	447.72	119.50
Total revenue	$ 40,643.06	$ 94,460.93	$ 97,545.92

EXPENSE—GAS.

Coal carbonized	$13,234.07	$27,209.73	$27,272.79
Coal handling expense	153.03	1,109.99	647.13
Bench Fuel	3,716.48	7,708.99	5,514.71
Total cost materials	$17,103.58	$36,028.71	$33,434.63
Coke returned	$ 8,865.19	$21,727.47	$16,187.24
Tar returned	531.88	2,109.10	2,607.84
Ammonia returned	324.00	240.50	614.35
Carbon returned	.....	52.00	58.50
Total Residuals returned	$ 9,721.07	$24,129.07	$19,467.93
Net cost new materials	$ 7,382.51	$11,899.64	$13,966.70
Retort House Labor	$ 5,403.62	$10,370.95	$10,974.48
Repairs, benches and retorts	600.00	2,010.00	2,160.00
Repairs, works tools	135.33	217.12	202.35
Misc. works expense	610.85	637.61	737.74
Total cost expense	$ 6,749.80	$13,235.68	$14,074.57
Total cost Gen	$14,132.31	$25,135.32	$28,041.27

GENERATING WATER GAS.

Steam—Labor	$ 54.10	$ 121.24	$ 5.50
Generator Fuel	283.13	1,384.55	415.78
Water, Gas, Oil	696.78	2,858.51	1,125.54
Total cost materials	$ 1,034.01	$ 4,364.30	$ 1,546.82
Net Cost materials	$ 1,034.01	$ 4,364.30	$ 1,546.82
Generator House Labor	$ 163.27	$ 509.29	$ 274.10
Repairs W. G. sets and acces	.....	190.00	120.00
Miscellaneous	8.20	15.57	1.02
Total cost expense	$ 171.47	$ 714.86	$ 395.12
Total cost Gen	$ 1,205.48	$ 5,079.16	$ 1,941.94
Mixed Gas	$15,337.79	$30,214.48	$29,983.21
Works—superintendence	$ 596.38	$ 785.02	$ 574.01
Misc. Labor at works	843.32	1,590.27	1,659.71
Purifier Labor	379.66	344.53	340.15
Boiler House labor	551.64	1,188.12	1,077.81
Boiler Fuel	213.80	351.00	661.91
Purification supplies	136.08	244.14	219.68
Repairs purification app	19.67	318.54	67.09
Repairs works and station struc	164.33	146.83	185.95
Repairs furnaces, boilers and access	303.65	237.80	331.58
Repairs steam engines	10.30	100.69	117.12

GENERATING WATER GAS—Continued.

	6 mos. 1915	1914	1913
Repairs Misc. power pl. equip.	$ 23.12	$ 107.74	$ 13.44
Repairs Misc. equip.	555.94	376.11	458.50
Repairs Holders	107.67	259.37	21.74
Water	252.75	477.85	512.80
Total purification and storage	$ 4,158.31	$ 6,528.01	$ 6,241.49
Total cost gas delivered	$19,496.10	$36,742.49	$36,224.70

DISTRIBUTION EXPENSE.

Dist. superintendence	$ 502.00	$ 992.14	$ 829.51
Dist. supplies and expense	86.22	182.73	194.73
Work on consumers' premises	459.66	813.25	1,064.54
Setting and removing meters	613.32	1,400.21	1,508.37
Repairs of Gas mains	391.91	1,011.09	1,446.38
Repairs of services	38.47	315.32	134.59
Repairs of meters	783.78	1,650.36	1,270.30
Repairs of dist. tools	168.10	372.70	386.97
Gas main expense	78.93	289.45	193.76
Service	77.88	197.49	263.57
Transmission pumping	.....	201.02	60.00
Total distribution expense	$ 3,200.27	$ 7,425.76	$ 7,352.72

COMMERCIAL EXPENSE.

Commercial accounting	$ 164.08	$ 365.48	$ 394.89
Commercial collecting	159.50	366.60	373.45
Meter reading	288.75	648.45	744.08
Total commercial expense	$ 612.33	$ 1,380.53	$ 1,512.42

PROMOTION EXPENSE.

Promotion management	$ 393.10	$ 342.58	$ 325.33
Demonstration and other promotion expense	163.74	628.41	590.47
Advertising	67.23	209.18	152.87
Canvassing and soliciting	946.60	545.03	237.44
Total promotion expense	$ 1,570.67	$ 1,725.20	$ 1,306.11

GENERAL AND MISC. EXPENSE.

Salaries General officers	$ 655.25	$ 1,693.35	$ 1,633.97
Salaries General office clerks	226.15	600.63	707.97
General office supplies	73.03	159.17	178.99
Rent	280.00	608.86	584.96
Incidental expense	32.75	52.28	88.81
General Stat'y and printing	99.98	287.38	380.93
Misc. general expense	343.83	832.25	913.17
Insurance	473.62	985.20	977.02
General Law expense	369.00	1,266.80	652.74
Law exp. connection with damages	90.00	.....	.....
Accidents and damages	90.00	600.00	600.00
Gas franchise requirements	16.92	33.46	22.99
Store expense	132.87	290.29	295.61
Uncollectable bills	208.74	358.95	479.83
Taxes	6,860.45	15,389.96	6,255.34
Management, aud., and Trav.	787.05	1,898.68	1,952.71
Total Gen. and Misc. expense	$10,739.64	$25,057.26	$15,725.04
Total cost gas	$35,619.01	$72,331.24	$62,120.99
Less duplicate gas charges	251.91	529.62	499.00
Total	$35,357.10	$71,801.62	$61,621.99
Loss Appliances and Add.	219.95	847.63	941.41
Total cost	$35,587.05	$72,649.25	$62,563.40

FAIR VALUE OF THE GAS PROPERTY.

(21) After considering all of the evidence and testimony in the case bearing on the value of the plant, and the cost to reproduce, the original costs, the investment, the present value, including preliminary and development costs, engineering and supervision, interest, insurance, organization and legal expenses during construction, contingencies, working capital, and all other elements of value (tangible and intangible), and taking into consideration that the plant is in successful operation and is a "going concern," the Commission finds the fair value of the gas property of The Colorado Springs Light, Heat & Power Company, for the purposes of determining reasonable and just rates in this case, to be $710,917.00. We therefore find that The Colorado Springs Light, Heat & Power Company is earning 1.16 per cent per annum on the fair and reasonable value of its gas property.

PRESENT SCHEDULE OF GAS RATES OF THE DEFENDANT COMPANY.

Fuel and Illuminating, Regular: $1.10 *per* 1,000 *cubic feet, less* 10c *discount per* 1,000 *cubic feet, provided bills are paid on or before the expiration of the discount period. Minimum guarantee* 50 *cents per month per meter.*

Commercial Gas: First 10,000 *cubic feet, at* $1.00 *per M net.*

Next 10,000 *cubic feet, at* .95 *per M net.*

Next 20,000 *cubic feet, at* .90 *per M net.*

Next 30,000 *cubic feet, at* .85 *per M net.*

Next 30,000 *cubic feet, at* .80 *per M net.*

Next 30,000 *cubic feet and over, at* .75 *per M net.*

Officers and Directors: Officers and directors of the Company and stockholders holding 100 *or more shares of stock,* 75 *cents per thousand cubic feet. No minimum guarantee.*

Employes of the Company: Regular rates without any minimum guarantee.

SPECIAL RATES.

Antlers Hotel: 80 *cents per thousand cubic feet.*

The Commission has devoted much time to the question of fair and reasonable rates and charges for gas to be sold by the Defendant corporation to consumers in Colorado Springs and Colorado City. We have found the present fair value of the gas property of The Colorado Springs Light, Heat & Power Company to be $710,917.00, with an average annual return, less depreciation, of $8,239.09, which results in a 1.16 per cent rate of return per annum on the fair and reasonable value of this gas property.

(22) The present schedule of rates and charges for the sale of gas by the Defendant corporation shows that this defendant is re

ceiving $1.00 per 1,000 cubic feet of gas, net, (23) with a minimum guarantee of fifty cents per month per meter, which appears to be not unduly high, and, in fact, a fair average rate for gas sold by other utilities in cities somewhat similar to Colorado Springs in size and location. After a thorough investigation we have been forced to come to the conclusion that the Defendant company manufactures gas at about the average cost, and we have been unable to arrive at a satisfactory conclusion for the low return on the present fair value of the gas properties of the Defendant company. It is ascertainable from the evidence that the representatives of the Defendant corporation were aware at the beginning of this hearing that the gas property of The Colorado Springs Light, Heat & Power Company was not earning a reasonable return upon the present fair value of the property, and with this knowledge the representatives of the Defendant Company did not request, or even intimate, that the Commission should permit the Defendant corporation to increase the rates and charges as shown in the present gas schedule of the corporation. (24) In the event we should permit an increase in the charges and rates for gas sold by the Defendant corporation it would be solely for the purpose of increasing the revenues of this Company, and we are not at all convinced that these revenues would be increased by an increase in the rates and charges, but, on the other hand, are of the opinion that an increase in the rates and charges would result in decreased earnings.

While the public utility is entitled to earn a reasonable return upon the present fair value of these properties, the consuming public is required to pay only the reasonable value for the service or commodity furnished. We shall entertain a complaint from the corporation in the form of a request for an increase in its rates and charges covering the sale of gas, accompanied by evidence sufficient to justify this Commission in ordering an increase in such rates and charges.

It Is Therefore Ordered, that the present schedule of rates and charges covering the sale of gas by The Colorado Springs Light, Heat & Power Company, and now on file with this Commission, be approved; provided, that officers, directors, stockholders and employes of the Defendant corporation must be shown no favoritism as to rates and charges, and rules and regulations surrounding the same, and the Defendant corporation is instructed to collect from such officers, directors, stockholders and employes, in moneys, for gas furnished to them and each of them by the said Defendant corporation, from and after the date of this order, in accordance with the schedule of rates and charges now open to the gas consuming public served by this Defendant corporation.

(15) It is further provided that the special rate favoring the Antlers Hotel shall be discontinued. However, the Defendant corporation may revise its schedule to include rates and charges for hotels.

This order shall become effective on the 1st day of January, 1916, and shall apply to all service furnished after said date.

STEAM PROPERTY.

We find that the present fair value of the property of the Defendant corporation in use and useful in the sale of steam heat is $122,774.00. We further find that there is an annual deficit, which includes $8,000.00 annual depreciation reserve, in the sum of $13,912.00.

(25) The laws of Colorado pertaining to public utilities and the regulation thereof by the Public Utilities Commission of the State of Colorado enumerate by name all public utilities which shall be under the jurisdiction of this Commission, and we have come to the conclusion that we are without jurisdiction in the regulation of the sale of steam.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 15th day of December, 1915.

In Re: EXTENSION OF TELEPHONE SERVICE to BOVINA, ARRIBA, FLAGLER, SEIBERT, VONA AND STRATTON.

(Case No. 45.)

Service—Extensions—Adequacy—Monopoly—Telephone.

A telephone company having the advantages of a natural monopoly within the boundaries of a state should make every effort to serve all communities within such state, and to extend its lines to include such towns not served by said company, although the investment does not immediately earn a fair return to the company, and in this way make its service of greater value to its present subscribers and to the state at large.

(December 18, 1915.)

INVESTIGATION on the Commission's own motion as to the necessity and feasibility of the construction of a telephone line from Genoa to Burlington, and the installation of telephone service over said line by The Mountain States Telephone & Telegraph Company; the necessity being shown, the Company was ordered to build a line and extend its service to include such points.

APPEARANCES: Milton Smith, W. F. Brown, W. F. Cozad and C. L. Titus for The Mountain States Telephone & Telegraph Company; C. S. Hamilton of Arriba, A. L. Anderson and Louis Vogt of Burlington, W. A. Borland and W. H. Phipps of Flagler, L. Q. Pugh, J. Brown and C. V. Morgan of Stratton, David Aken and Ira Fuller of Vona, for the intervenors.

By the Commission:

On the 1st day of October, 1915, an informal written petition was filed with the Commission, signed by citizens of Flagler, Colorado, praying that this Commission order the Mountain States Telephone & Telegraph Company to extend its lines of telephone from Genoa, Colorado, east to Burlington, Colorado. One of the Inspectors for the Commission was instructed to investigate into the merits of the petition filed with this Commission by the citizens of Flagler, and, on November 24, 1915, Inspector C. W. Fairchild filed his written report with us. In accordance with the recommendations therein contained the Public Utilities Com-

mission of the State of Colorado, on the 26th day of November, 1915, ordered The Mountain States Telephone & Telegraph Company to appear at the Hearing Room of the Commission, in the City and County of Denver, on the 13th day of December, 1915, at the hour of 10:00 o'clock a. m., and make such showing as it might desire or its interest might require in answer to the order of the Commission.

The above cause came on for hearing before the Commission on the 13th day of December, 1915, at the hour of 10:00 o'clock a. m., in its Hearing Room in the State Capitol Building in the City and County of Denver, Colorado, and evidence was presented to the Commission by citizens of the communities affected and by representatives of the Defendant corporation.

The Defendant corporation—The Mountain States Telephone and Telegraph Company—to a large extent enjoys a natural monopoly within the boundaries of the State of Colorado. The cities and towns and communities known as Bovina, Arriba, Flagler, Seibert, Vona, Stratton and Burlington, are now served by privately owned or mutual telephone exchanges, and enjoy no toll service. The evidence in this cause convinces us that these communities are prosperous and will show a steady increase in population in future years. Many witnesses testified that the inhabitants of the petitioning towns and cities are unable to transact business in Denver, Colorado Springs, Pueblo, and other trade centers within the State of Colorado, due, partially, to inadequate telephone service; and that a large proportion of this business, that properly belongs to the trade centers of this State, is directed east and out of the State. We are therefore of the opinion that the proposed extensions of telephone lines of the Defendant corporation will be of mutual benefit to the petitioning communities and the trade centers of Colorado.

The Defendant corporation introduced testimony to the effect that the proposed extensions of telephone lines would be expensive, and the investment would not immediately earn a fair return for the Defendant corporation.

We are of the opinion that this is not the test, and that the Defendant corporation, having the advantages of a natural monopoly within the boundaries of this State, should make every effort to serve all communities within the State, and, in this way, make its service of greater value to its present subscribers and to the State of Colorado at large.

After a careful examination of the record in this case we find that the Commission is justified, from the evidence, in ordering the Defendant corporation, The Mountain States Telephone & Telegraph Company, to extend its telephone lines, and to adequately serve the petitioning communities at fair and reasonable charges, with equitable rules, regulations and practices surrounding the same.

It Is Therefore Ordered That the Defendant, The Mountain States Telephone & Telegraph Company, with all due dispatch, and under the supervision of this Commission, extend its telephone lines from Genoa, Colorado, east to Burlington, Colorado, and that the said telephone lines be strung through and serve with adequate telephone service, at reasonable and just rates, the town of Burlington, Colorado, and the following cities and towns or communities located east of Genoa and west of Burlington: to-wit, Bovina, Arriba, Flagler, Seibert, Vona and Stratton, Colorado.

It Is Further Ordered That the Defendant corporation file with this Commission, subject to its approval, the rates and charges, and the rules, regulations and practices surrounding the same, which shall apply to the cities and towns and communities known as Burlington, Bovina, Arriba, Flagler, Seibert, Vona and Stratton, Colorado.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 18th day of December, 1915.

THE GREELEY GAS & FUEL CO.

v.

THE COLORADO & SOUTHERN RAILWAY COMPANY, THE DENVER & RIO GRANDE RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY.

(Case No. 26.)

(1) *Rates—Railroads—Reasonableness—Competing line.*

In determining the reasonableness of rates between certain points, between which two or more carriers compete, due consideration must be given to each line as the facts in each particular case warrant.

(2) *Rates—Railroads—Reasonableness—Originating line.*

Originating lines generally are entitled to the longest haul they can perform where the transportation can be performed upon equal terms, with reasonable dispatch and without undue discrimination, and the shipper has no cause for complaint so long as the rates and service be fair and reasonable and shipments handled with reasonable dispatch.

(3) *Rates—Railroads—Reasonableness—Differentials.*

Rates on coal from the Walsenburg district to Denver are used as the standard to base rates to eastern Colorado points, particularly when moving through the Denver Gateway, and rates from other coal-producing districts take established differentials over or under the Walsenburg rate.

(4) *Rates—Railroads—Reasonableness—Divisions.*

The Commission will not allow the introduction of divisions of rates into testimony, nor will it consider divisions, where the question of divisions is not relevant to the determination of the reasonableness of rates per se.

(5) *Rates—Railroads—Reasonableness—Comparison.*

Intrastate rates should not be depressed to harmonize with interstate rates, which rates have been established for the purpose of extending the markets of shippers within the state.

(6) *Rates—Railroads—Reasonableness—Comparison.*

Voluntary rates established by carriers under highly competitive conditions are not a fair measure of comparison with rates between points where little or no competition exists.

(7) *Rates—Railroads—Reasonableness—Distance.*

Rates per ton per mile are valuable for comparative purposes only, and cannot be used as a guide in the determination of the reasonableness of rates.

(8) *Rates—Railroads—Reasonableness—Distance.*

It is a general proposition that the rate per ton per mile should decrease as the distance increases, and this is particularly true of long hauls.

(December 20, 1915.)

COMPLAINT against the rates on coal from the Trinidad district to Greeley; rates found reasonable and complaint dismissed.

APPEARANCES: Clarence S. Darrow, Charles Tew and E. B. Wilkinson for the Complainant; A. S. Brooks for The Colorado & Southern Railway Company; J. G. McMurry and Fred Wild, Jr., for The Denver & Rio Grande Railroad Company; C. C. Dorsey and J. Q. Dier for the Union Pacific Railroad Company.

By the Commission:

On June 30, 1915, the above named Complainant filed its petition with the Commission and alleged:

That the Complainant, The Greeley Gas & Fuel Company, is engaged in the business of supplying gas for heating and lighting purposes in the City of Greeley, State of Colorado, and in the manufacture of said gas, large quantities of coal from the Trinidad district, State of Colorado, are used, on which the Complainant is compelled to pay the Defendant railroad companies two and a half dollars ($2.50) per ton for the hauling and delivering of said coal to the plant of the Complainant, situated in the City of Greeley, State of Colorado.

That the said rate is exorbitant, excessive, discriminative and unfair, and the Complainant prays for an order to compel the Defendants herein to deliver said coal from said district to the plant of the Complainant in the City of Greeley, at a rate not to exceed $1.25 per ton.

To this petition, the Defendants filed separate answers, which, in form and substance, were practically identical. They admit that the published rate on coal, other than Pea and Slack, in carload lots, from the Trinidad district, to Greeley, is $2.50 per ton, and on Pea and Slack coal, $2.10 per ton. Deny that said rates are excessive, exorbitant, discriminatory or unfair. Deny that a rate of $1.25 per ton on coal from the Trinidad district to Greeley would be a reasonable rate, and pray to have the complaint dismissed.

On these issues, and after due notice, the cause came on for regular hearing before the Commission in its Hearing Room, Capitol Building, Denver, Colorado, at 10:00 a. m., August 12, 1915, at which time the Complainant asked and was granted leave to amend its petition to embrace reparation on all shipments made during the period including the two years immediately preceding the filing of this petition.

It appears that the Complainant uses about two hundred tons of coal per month for the purpose of manufacturing gas in the City of Greeley, all of which is transported from the Trinidad district. It appears that coal from this district is of the coking nature and is the only coal in the State which is available to the Complainant for the manufacture of gas. For this reason the Complainant cannot use other and cheaper coal mined at points near Greeley and transported at much cheaper rates.

The basis of the complaint, as outlined at the hearing, is that the present charge is unreasonable in and of itself; also that it is discriminatory in comparison with the rate to Denver and to other points in the state.

To substantiate this view, comparison was made with other rates on coal, as well as rates on other commodities; the particular attention of the Commission being directed to the allegation that coal from the Trinidad district is being hauled through Greeley to Cheyenne, Wyoming, which is fifty-six miles further, at the same rate as applies to Greeley.

All coal from the Trinidad district to Greeley moves either via The Denver & Rio Grande and Colorado & Southern, or Atchison, Topeka & Santa Fe, to Denver; thence, via Union Pacific or Colorado & Southern, to Greeley; the Colorado & Southern being the only line operating into both places.

The average distance from the Trinidad district to Denver, is two hundred and thirteen miles, and from the Trinidad district to Greeley via Union Pacific, two hundred and sixty-five miles, and via the Colorado & Southern, three hundred and twelve miles; and from Trinidad to Cheyenne via the Colorado & Southern, the distance is three hundred and thirty-three miles.

It is thus seen that the distance to Cheyenne via the Colorado & Southern is but twenty-one miles further than from the Trinidad district to Greeley via the same line, and so far as that line is concerned, Greeley is not an intermediate point with Cheyenne. If this traffic was handled to Cheyenne over the line of the Union Pacific it would necessitate a haul of fifty-six miles beyond Greeley, but the evidence disclosed the fact that the Union Pacific has never joined with other carriers in establishing a joint rate on coal from this district to Cheyenne. The only Trinidad to Cheyenne rate that has ever applied through Greeley, applied via the Colorado & Southern Railway direct, which operated between Denver and Cheyenne under a joint trackage agreement with the Union Pacific.

On November 6, 1911, the Colorado & Southern Railway Company opened its own line from Wellington to Cheyenne, and traffic then ceased to move through Greeley. The Cheyenne rate has not applied through Greeley since that date.

The following statement shows the various rates which the interested carriers have applied to this traffic since 1909, as shown by tariffs on file with this Commission:

	In Cents per Ton. LUMP.
TRINIDAD TO GREELEY:	
Via C. & S. Ry. direct:	
Nov. 13, 1909	295
Oct. 3, 1910	275
Oct. 1, 1913	250
Via C. & S. Ry.-Denver-U. P. R. R:	
Nov. 13, 1909	No Rates in Effect
June 20, 1910	295
Oct. 3, 1910	275
Dec. 20, 1913	250
Via D. & R. G. R. R.-Denver-U. P. R. R.:	
Nov. 13, 1909	No Rates in Effect
Mar. 27, 1911	275
Dec. 20, 1913	250
Mar. 30, 1914	250
TRINIDAD TO CHEYENNE:	
Via C. & S. Ry. direct:	
Nov. 23, 1909	225
Dec. 15, 1911	275
Oct. 1, 1913	250
Via C. & S. Ry.-Denver-U. P. R. R.	No rates.
Via D. & R. G. R. R.-Denver-U. P. R. R.	No rates.

It will be observed from this that a rate of $2.50 per ton applies on coal from the Trinidad district to Greeley either via The Colorado & Southern line direct, or jointly with the Union Pacific; also that the same rate applies to Cheyenne via The Colorado & Southern line only. It will also be observed that the haul to Greeley via the Union Pacific line is forty-seven miles shorter than via The Colorado & Southern line.

The Complainant insists that so long as two rates are available, the shorter one should be used in determining the rate to be applied.

(1) This Commission has always adhered to the belief that where two or more lines compete for business, that due consideration should be given to each line as the facts in each particular case will warrant.

Garwood vs. C. & S. Ry. Co. et al., Colo. P. U. Comm. 1st. Ann. Rep., 55.

Commercial Club of Greeley vs. C. & S. Ry. Co. et al., Colo. P. U. Comm. 1st Ann. Rep., 117.

This position is well fortified by many decisions of the Interstate Commerce Commission.

> City of Spokane et al., vs. N. P. Ry. Co. et al., 15 I. C. C., 376.
>
> Newport Mining Co. vs. C. & N. W. Ry. Co., 33 I. C. C., 645.

It is to be remembered that the rails of The Colorado & Southern Railway Company, one of the defendants in this case, reach both the point of production and the point of consumption involved in this case, and it is therefore in a position to haul the entire tonnage over its own rails, if it so desires. It is at liberty, under certain limited restrictions, to withdraw its concurrence in the present joint rate with the Union Pacific, at any time.

(2) It has been generally recognized that the originating carrier has the right to secure as long a haul as possible, and the shipper has no cause to complain, so long as the rates and services are fair and reasonable, and shipments handled with reasonable dispatch.

In the case of Columbia Gold Mining Co. vs. O. W. R. R. & N. Co. et al., 35 I. C. C., 42, the Commission said:

> "Originating lines generally, are entitled to the longest haul they can perform, where the transportation can be performed upon equal terms, with reasonable dispatch, and without undue discrimination."

Again in Suffern Grain Co. vs. I. C. R. R. Co., 27 I. C. C., 192, the Commission upheld this principle.

(3) The rates on coal from the Walsenburg district to Denver are the basis upon which practically all coal rates in Eastern Colorado are based, particularly when moving through the Denver Gateway, and rates from other coal-producing sections take a fixed arbitrary, either above or below the rates from that point to Denver.

> Case No. 10, In re Eastern Colorado Coal Rates, 1 Colo. P. U. C., 48.

The rate from Walsenburg to Denver on Lump coal in car lots is $1.60 per ton, and the rate from Trinidad to Denver takes a rate of twenty-five cents higher, making the rate from Trinidad to Denver, $1.85 per ton.

In the case of the Greeley Commercial Club vs. The Colorado & Southern and the Union Pacific Companies, *supra*, the Commission held that a rate of ninety cents per ton on Lump coal from the northern fields to Greeley was a reasonable rate, the northern fields being approximately twenty-five miles north

of Denver and intermediate with Greeley. Assuming this rate applied from Denver, the sum of the two locals from Trinidad to Greeley would be $2.75 per ton as against the present through rate of $2.50 per ton.

As an argument to build up and justify as to what the Complainant considers a fair rate to Greeley, it attacks the rates to Colorado Springs as compared to the rate to Denver, the distance to Denver being seventy-five miles greater, and the rate ten cents per ton higher, and from this situation, arrives at the conclusion that the added rate of sixty-five cents from Denver to Greeley, a distance of fifty-two miles, is unreasonable.

The Defendants argue that the city of Denver is a large market, and highly competitive; that at that place the coal from southern Colorado comes in direct competition with coal from other parts of the state, as well as from mines in Wyoming, and for this reason, they are compelled to put into effect a rate upon which southern Colorado coal can meet this competition.

(4) However, the Commission is not called upon at this time to determine a reasonable ratio in the rates as between Colorado Springs and Denver; neither would the Commission allow the Complainant to go into the question of divisions between The Colorado & Southern and Union Pacific Companies, for the reason that it was not relevant in determining the reasonableness of the through rate, in and of itself.

The Commission does not feel that the Complainant is being discriminated against on account of the fact that one of the defendants, The Colorado & Southern Railway Company, has in effect the same rate to Cheyenne, Wyoming, as in effect to Greeley. The difference in mileage is not great, and is in the nature of a blanket rate, which system this Commission, as well as the Interstate Commerce Commission, and practically every other commission in the United States, have approved in many instances. (5) Neither does the Commission believe that it is to the best interest of the shippers in this state to depress "intrastate" rates to fully harmonize with "inter-state" rates, which rates have been established for the purpose of extending the markets of shippers in this state.

It may be noted here that on May 18, 1912, the Complainant herein filed an informal complaint with the State Railroad Commission, the predecessor of the Public Utilities Commission, wherein it asked for a rate of $2.35 on Lump coal from the Trinidad district to Greeley, and in the present case, a petition for a rate of $1.25, and in the brief submitted by Complainant in this case, the request is made for a rate of $1.75 per ton. The brief also sets forth for comparative purposes, a table of figures extracted from the tariffs of Defendants, showing rates on various commodities within the state; also a statement, showing earnings per ton, per mile, on several railroads in other parts of the United

States, both of which have been of little value to the Commission in arriving at a correct conclusion.

Comparisons were also made and submitted to the Commission, showing rates on coal between various places within the state, particular emphasis being placed upon the rates from South Canon and Palisade, to Denver, as fixed by the Commission in Case No. 10, and the rates from points in Routt County, on the Denver & Salt Lake Road to Denver and Greeley.

(6) The Commission does not deem these rates to be a fair comparison. The rates from South Canon and Palisade to Denver were ordered into effect principally because the Colorado Midland Road, the principal carrier involved in that case, desired those rates in order to build up its business. The effect is admitted to be problematical and uncertain. Neither are the rates from the mines in Routt County to Denver and Greeley to be taken as a fair comparison. While they are in a sense voluntary rates, the Denver & Salt Lake Railroad Company has always contended that it was compelled to put in its present rates in order to allow shippers in that territory to compete for business in the Denver market.

(7) The Commission has heretofore held, and does so in this case, that rates cannot be computed solely upon the per ton per mile basis.

There are many other elements to be taken into consideration in fixing rates in most cases. The Commission feels, however, that the per ton per mile basis would be valuable in this case, to use for comparative purposes only. As stated above, the Walsenburg-Denver rate is a basis used in computing practically all rates in eastern Colorado, including the rate involved in this case. On this basis, the Trinidad rate to Denver is $1.85 per ton, or at the rate of .0087 per ton per mile. Applying this rate to the mileage to Greeley via the Union Pacific, produces a rate of $2.30 per ton, and applied to the mileage to Greeley via The Colorado & Southern line, produces a rate of $2.71 per ton. The average distance to Greeley via both lines is two hundred and eighty-eight miles, and at the rate of .0087 per ton per mile, produces a rate of $2.47 per ton, or practically the same rate as is now in effect.

(8) The Commission adheres to the general proposition that the rate per ton per mile should decrease as the distance increases. This is particularly true of long hauls. In the present case, the Colorado & Southern is receiving .0087 per ton per mile on coal from the Trinidad district to Denver, and .008 per ton per mile on coal from Trinidad to Greeley, when transported over its own rails.

The Commission feels that it is of vital importance to establish a uniform and equitable ratio on coal rates between the different points of production and consumption, and gave this question considerable attention in Case No. 10. While the rates to Greeley were not specifically considered in that case, an exam-

ination discloses the fact that the rate in question in this case, is almost on an exact parity with the rates to other points as fixed by the Commission in that case.

The Annual Report filed with the Commission by the Union Pacific and The Colorado & Southern Companies, for the years 1914-1915, show that their average receipts per ton per mile, are as follows:

	STATE	
	U. P.	
1914	.00996	
1915	.01276	
	ENTIRE LINE	
	C. & S.	U. P.
1914	.01037	.00942
1915	.01043	.00945

It will thus be seen that the return to the carriers on the present rate is considerably less than the general average for both carriers.

For the above and foregoing reasons, the Commission does not feel that it can consistently order a reduction in the rate which is involved in this case. The complaint will therefore be dismissed.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 20th day of December, 1915.

In Re: PASSENGER TRAIN SERVICE OF THE GREAT WESTERN RAILWAY COMPANY.

(Case No. 40.)

(December 22, 1915.)

INVESTIGATION on the Commission's own motion as to the adequacy of passenger train service of the Great Western Railway; respondent having installed gasoline motor car service with adequate schedule, complaint dismissed.

APPEARANCES: C. W. Waterman, Caldwell Martin and E. R. Griffin for The Great Western Railway Company.

By the Commission:

On the 3rd day of December, 1914, the Johnstown Commercial Club filed an informal complaint with this Commission, wherein it was alleged that the passenger service afforded the patrons of The Great Western Railway Company, was insufficient, and inadequate, particularly on that portion of its line between Johnstown, Colorado, and Milliken, Colorado.

The Commission extended an invitation to the representatives of the Johnstown Commercial Club and The Great Western Railway Company to confer with the Commission as to all matters contained in the informal complaint of the petitioners.

This conference was held on the 12th day of March, 1915, and the result was a written stipulation entered into between the Commission and the Defendant, wherein it was agreed that the Commission should treat this informal petition as a formal complaint, and the following order was entered:

"It Is Hereby Ordered, That the Great Western Railway Company institute, maintain and operate a passenger train service between Johnstown, Colorado, and Milliken, Colorado, each day except Sunday, on the following schedule:

Leave Johnstown at 8:25 a. m., Arrive at Milliken at 8:35 a. m.
Leave Milliken at 9:00 a. m., Arrive at Johnstown at 9:10 a. m.
Leave Johnstown at 5:50 p. m., Arrive at Milliken at 6:00 p. m.
Leave Milliken at 6:45 p. m., Arrive at Johnstown at 6:55 p. m.

It being the purpose of this schedule to make connections at Milliken with the trains of the Denver, Laramie & Northwestern Railroad Company to and from Denver.

This Order shall be in full force and effect on and after date, and continue in force until September 1, 1915, unless sooner revoked by the Commission.

M. H. Aylesworth.
(Seal) Geo. T. Bradley,
S. S. Kendall,
Commissioners.

Dated at Denver, Colorado, this 1st day of April, 1915."

The defendant carrier, subsequent to September 1, 1915, and after giving notice to the Commission as required by General Order No. 4, published and filed with the Commission, in accordance with the laws of the State of Colorado, a different schedule of Passenger Train Service, from that ordered in the Commission's Order in Case No. 16.

Many informal complaints as to the inadequacy and unreasonableness of this service, as provided for by the new schedule, were filed with the Commission; and on the 30th day of September, 1915, the Commission gave notice to the defendant carrier to appear at the Hearing Room of the Commission in the Capitol Building, in the City and County of Denver, on the 4th day of October, 1915, at the hour of 2:00 p. m., to take such part in the hearing of the above cause as the interest of the said defendant seemed to require.

On the 4th day of October, 1915, at the hour of 2:00 p. m., at the Hearing Room of the Commission, the Defendant carrier introduced testimony in defense of the present schedule of Passenger Train Service. C. W. Fairchild, an inspector for the Commission, appeared and testified for the Commission.

The Great Western Railway Company is owned by The Great Western Sugar Company, and is operated, primarily, for the purpose of handling its own traffic, to-wit: sugar beets from beet dumps in northern Colorado, to the sugar factories of The Great Western Sugar Company; and sugar from the said factories to be delivered to connecting carriers for hauling to markets.

The railroad line of the said Defendant carrier consists of fifty-seven miles of main line, which extends from Longmont, Colorado, to Eaton, Colorado, with Johnstown as an intermediate point, and with branches extending therefrom to Loveland, Welty and Milliken.

The Defendant carrier is a common carrier, engaging in the transportation of freight and passengers, traversing a part of the State of Colorado renowned for its agricultural resources.

The Defendant has in the past operated mixed trains for passenger and freight service, which resulted in irregular and inadequate passenger service.

During the hearing of the above cause, the Commission suggested that the Defendant ascertain the cost of a gasoline motor-car, to be purchased by the Defendant and operated exclusively for passenger and express service. This recommendation of the Commission was accepted by the Defendant, and the Commission was requested to continue this cause until a report could be made by Defendant carrier to the Commission as to the cost of a gasoline motor-car, together with an estimate of operating expenses and operating revenues which would accompany the installation of the suggested motor-car passenger and express service.

On the 21st day of December, 1915, the Commission received a communication from E. R. Griffin, Vice-president and General Manager of The Great Western Railway Company, informing it that the Defendant carrier had arranged for the purchase of a gasoline motor passenger and express car, which was to be shipped immediately to the Defendant carrier, and that upon the receipt of said car, the Defendant corporation would install adequate passenger and express service on its line of railroad to be operated on a regular schedule to be filed with and approved by the Public Utilities Commission of the State of Colorado. Mr. Griffin informed the Commission that the motor-car schedule would be so arranged as to permit passengers from Johnstown to be transported from Johnstown to Denver and return, in one day, and that a reasonable one-way fare and round-trip fare would be made by the Defendant carrier between Johnstown and Denver.

It Is Therefore Ordered, That Case No. 40, entitled—

> "In the Matter of an Investigation and Hearing, on Motion of the Commission, into the Adequacy of Passenger Train Service within the State of Colorado, on the lines of The Great Western Railway Company, a Corporation"—

be dismissed, said Order of Dismissal to take effect on the date of the installation of adequate motor-car passenger and express service on the lines of the Defendant carrier; Provided, that the rates and charges of said passenger and express service, together

with the schedule of said service, shall be filed with the Commission and subject to its approval.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 22d day of December, 1915.

In Re: RATES AND SERVICE OF THE COLORADO SPRINGS LIGHT, HEAT & POWER COMPANY.

(Case No. 24.)

Modification of Order.

(December 29, 1915.)

By the Commission:

Whereas, On the 29th day of December, 1915, The Colorado Springs Light, Heat & Power Company, the defendant in the above cause, filed its written application to extend the time of the effective date of the order of this Commission in said cause, entered on the 15th day of December, 1915, to become effective January 1, 1916, and to apply to all service furnished after said last mentioned date; and,

Whereas, Said written application is verified by R. L. Holland, Esq., Vice-President of said defendant, The Colorado Springs Light, Heat & Power Company, and is supported by affidavits of Mr. J. S. Dostal, General Manager, and J. W. Ryter, Auditor, of said defendant corporation; and,

Whereas, The application and affidavits in support of same allege that the order of this Commission in case No. 24 establishes a schedule of rates for certain classes of service supplied by the Defendant, which, in order to compute customers' bills thereunder, necessitates the accurate ascertainment of the connected load of each individual customer, and that the records of the Defendant corporation do not contain this necessary information; that the employees of the Defendant corporation are unable to obtain the necessary data and information by January 1, 1916, the effective date of said order; and,

Whereas, It is alleged in said application that the Defendant corporation has not had sufficient time, since the entering of the order of this Commission in the above cause, to fully advise itself as to all of the provisions and schedules in said order contained, or to apply the same to its business, in order to determine with a reasonable degree of certainty the effect thereof, and therefore will not be able satisfactorily to determine, prior to the date on which said order becomes effective, whether or not it desires to

file an application with this Commission for a rehearing in this case, and is therefore unable to specifically set forth the ground or grounds on which it considers said decision and order to be unlawful, if it should finally determine the same or any part thereof to be unlawful, as is required by the laws of the State of Colorado; and,

Whereas, The Commission has read the application and affidavits in support of the same, and is fully advised in the premises.

It Is Therefore Ordered, That the order of the Commission in case No. 24, made and entered on December 15, 1915, to become effective on the 1st day of January, 1916, and to apply to all service furnished after said date, be modified to the extent that the effective date of said order shall be February 1, 1916, and shall apply to all service furnished after said date.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 29th day of December, 1915.

THE PRIMOS MINING AND MILLING COMPANY

v.

THE COLORADO POWER COMPANY.

(Case No. 27.)

(1) *Negligence—Utilities—Reasonableness of rules.*

The Commission, in reviewing a rule or regulation of a public utility having reference to indemnity due to injury from negligence, is interested only in the reasonableness of the rule or regulation.

(2) *Negligence—Electric—Contracts.*

In considering a rule in a contract purporting to indemnify a utility operating a high power transmission line, by a user of its energy, from all demands and expenses for injury or damage to person or property incurred on the user's property, except such as occur to the utility's employees, the principles of the law of negligence are not relevant, the Commission being required to determine the reasonableness of the rule only.

(3) *Negligence—Contracts—Electric—Reasonableness.*

A rule in a contract between a consumer and an electric utility, operating a high power transmission line across 1600 acres of lands of the consumer and thence to other consumers, requiring the user to indemnify the utility from all demands and expenses for injury or damage to person or property upon or about the property of the user, except injury or damage to the utility's employees, and not caused by the act or negligence of the utility, held unreasonable by the Commission.

(December 30, 1915.)

COMPLAINT against a rule in a contract between a consumer and an electric utility requiring the user to indemnify the company from demands and expenses arising from injuries or damages occurring on the user's property, not caused by the act or negligence of the company, nor to the company's employees; rule found unreasonable and ordered stricken from contract.

APPEARANCES: H. E. Rowland for the complainant; Wm. V. Hodges and L. G. Williams for the defendant.

By the Commission:

On the 21st day of October, 1915, the Complainant and the Defendant, by written stipulation, presented to the Commission certain propositions to be decided, and both the Complainant and the Defendant agreed upon all facts presented, and recog-

nized the jurisdiction of this Commission as to the proposition submitted, reserving to the Complainant and Defendant, respectively, all rights of appeal or writ of error or review to the Courts, from any decision of the Commission in this case, in the manner provided by law respecting decisions, judgments or findings of the Commission.

From an examination of the stipulation and agreement of facts, together with Exhibits "A," "B" and "C," we have presented to us for decision the question of the reasonableness of a rule or regulation of the Defendant company as provided for in a contract made between the Complainant and Defendant on the 10th day of December, 1914,—the said rule or regulation being made a part of said contract.

It appears that the Complainant objected to attaching its signature to the contract offered by the Defendant company, giving as its reason that the rule and regulation complained of was unjust, unfair and inequitable, and that the signatures of the plaintiff and the defendant were attached to said contract with the understanding that the reasonableness of this rule or regulation of the Defendant company should be presented to this Commission for determination.

The Defendant company is engaged in the business of the production and sale of electric energy for lighting and power purposes, and is a corporation existing under the laws of the State of Colorado and operating within this State; that the Complainant is a corporation existing under the laws of the State of Colorado, and is engaged in mining tungsten ores, and concentrating the same, and in its mining and milling operations has for many years purchased from the Defendant company electricity for power purposes for its mines and its mill, all located in Boulder county, Colorado. It is admitted that no electric power is available to the Complainant except that furnished and sold by the Defendant company, and that the Complainant owns a large tract of land, consisting of approximately 1,600 acres, in the county of Boulder, State of Colorado, and upon this land are situate the mines and the mill above mentioned.

It further appears from the contract that the Defendant agrees to supply the Complainant with electric power at a potential of approximately 440 volts, not exceeding 80 h.p. (80 electrical horse power), at any one time, and we therefore arrive at the conclusion that the Complainant requires 440 volts of electric current for its own use for power purposes.

The written stipulation and agreement of facts presented to this Commission informs us that the Defendant company conveys the said electric energy to the mill and mines of the Complainant company by high tension transmission lines, the said

high tension transmission lines carrying approximately 13,000 volts of electricity. All of these transmission lines of the Defendant corporation are strung across the lands owned by this Complainant and serve other consumers of electric energy at points beyond the lands owned by the Complainant.

The high tension lines were constructed by the Defendant company, are maintained by it, and, under the terms of the contract, the Complainant grants a right of way for these high tension transmission lines across the lands owned by the Complainant and permits the Defendant to inspect, repair and maintain the high tension lines at all times, and the said high tension transmission lines are at all times under the control of the Defendant corporation. The electric energy used by the Complainant is delivered from the high tension lines of the Defendant company to the Complainant at transformer houses, and there conveyed to the mill and mines of the Complainant by the use of low tension lines.

The machinery and electrical appliances in the transformer houses belong to the Defendant corporation, and the wires leading from the transformers, or the low tension lines to the mill and mines of the Complainant, belong to the Complainant.

The rule and regulation of the Defendant corporation complained of by the Complainant as unreasonable is as follows:

> "9. The User shall indemnify the Company from all demands and expenses for injury or damage to person or property upon or about the property of the User, except injury or damage to the Company's employes and not caused by the act or negligence of the Company."

The evident intention of this clause was that the user should indemnify the Company from all expenses and demands for injury or damage to person or property, which resulted from the fact that the high tension lines were located upon the lands owned by the Complainant, when the said injuries or damages were not sustained by the Company's employes, and were not caused by the act or negligence of the Company. This rule, as it stands, appears to be quite ambiguous as to its real meaning, and we are compelled to arrive at the intention of the parties as expressed in the stipulation and agreed facts presented to us.

Elaborate briefs have been filed with us by the Defendant and Complainant, and many authorities have been cited by the Complainant to illustrate that the Supreme Court of the State of Colorado has decided that a Company owning and operating high tension transmission lines, conveying electric current, must exercise the highest skill, the most consummate care and caution, and the utmost diligence and foresight in the operation and control thereof. (1) In the decision of this cause we are not inter-

ested as to the rules of law announced by courts of this State and other States as to the liability of this Defendant company for damage or injury sustained by the negligence of the Defendant company in the control and operation of its high tension transmission lines, or for damage and injury resulting through the use of said high tension lines by said Defendant company. (2) The question before us for decision is whether or not the rule or regulation contained in the contract presented to us is reasonable and equitable, and we have arrived at the conclusion that it is both unreasonable and inequitable.

The Defendant company, in its brief filed with this Commission, quotes a rule somewhat similar to the one in question, which was approved by a Public Service Commission of another State, and also calls our attention to rules of other electric public utilities operating within the State of Colorado. This Commission has not determined upon a uniform system of rules and regulations applying to electric public utilities operating within this State, and therefore each question pertaining to rules and regulations presented to the Commission, and the determination thereof by us, shall apply only to the particular case presented.

(3) It Is Therefore Ordered that Clause 9 of the rules and regulations of the Defendant corporation, which has been attached to and made a part of the contract entered into between the parties to this cause, and which reads as follows:

> "9. The User shall indemnify the Company from all demands and expenses for injury or damage to person or property upon or about the property of the User, except injury or damage to the Company's employes and not caused by the act or negligence of the Company."

is unreasonable, and therefore stands disapproved by this Commission.

It Is Further Ordered that Clause No. 9 of the rules and regulations of the Defendant company, which has been attached to and made a part of the above mentioned contract entered into between the parties to this cause, shall be of no force and effect, and shall be stricken from said original contract, and copies thereof, by the Defendant corporation, and that the Defendant corporation, after complying with the order of this Commission, shall file with us a copy of said revised contract.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, the 30th day of December, 1915.

INDEX-DIGEST

ABANDONMENT.

Of charter, by common carrier. See CHARTERS, 1.

Of train service, by common carrier. See CHARTERS, 1.

ADEQUACY.

Of electric interurban service. See SERVICE, 6, 7.

Of train service. See SERVICE, 12.

ANTI-TRUST LAWS.

Jurisdiction of Commission over restraint of trade. See COMMISSIONS, 5.

APPORTIONMENT.

I. Values, earnings and expenses, 1-3.

1. Values, earnings and expenses of electric distributing company apportioned in a valuation for rate-making purposes between municipal, domestic and commercial current. *City of Florence v. Arkansas Valley Electric Company, et al* 75

2. In a valuation for rate-making purposes of an electric operating utility the apportionment of general office expenses between its four properties was found unreasonable and proper apportionment made. *Idem.*

3. In a valuation of a utility for rate-making purposes the values, earnings and expenses were apportioned between the electric, hydro, gas and steam-heating properties. *In Re Colorado Springs Light, Heat & Power Company* 159

BAGGAGE.

On electric interurban railway. See SERVICE, 8.

BENEVOLENT PURPOSES.

Reduced rates to charitable institutions. See DISCRIMINATION, 4.

BLANKET RATES.

See RATES, 9, 10.

BREAK-DOWN SERVICE.

Of electric utilities. See VALUATION, 6.

BURDEN OF PROOF.

As to reasonableness of rates. See EVIDENCE, 1.

CARRIERS.

See also ELECTRIC RAILWAYS.

See also RAILROADS.

I. **Duties to public,** 1.

1. The fact that the property of a carrier is devoted to public use on certain terms does not justify the requirement that it shall be devoted to other purposes or to the same use on other terms or the imposition of restrictions that are not reasonably concerned with the proper conducting of the business according to the undertaking which the carrier has expressly or impliedly assumed; thus, if it holds itself out as a carrier of passengers only, it cannot be compelled to carry freight, or as a carrier for hire it cannot be required to carry persons or goods gratuitously, but, as a corporation, the owner is subject to the obligations of its charter, and as the holder of special franchises is subject to the conditions upon which they were granted and must discharge the obligations which inhere in the nature of its business, must supply facilities that are reasonably adequate, must carry upon reasonable terms and must serve without unjust discrimination; these duties are public duties, and the State may prescribe rules and insure substantial equality of treatment in like cases. *Castle Rock Mountain Railway & Park v. Denver Tramway Company* 126

CHARITABLE INSTITUTIONS.

Reduced rates to. See DISCRIMINATION, 4.

CHARTERS.

Obligations of. See CARRIERS, 1.

I. **Abandonment of,** 1.

1. Where it appears that a railroad company has duly dissolved and surrendered its charter and has ceased to do business, pursuant to, and in the manner and form provided by the laws of the State of Colorado, the Commission is without power to enforce a previous order requiring the said carrier to operate its road. *City of Canon City v. Florence & Cripple Creek R. R. Company, et al*.....86

COMMISSIONS.

Effect of prior laws. See CONSTITUTIONAL LAW, 1.

I. **Jurisdiction, powers and functions,** 1-7.

1. The Commission, acting under authority vested in it by virtue of Section 23 of the Public Utilities Act, may on its own motion, enter into an investigation as to the reasonableness of specific rates, and any or all rates in any wise related thereto, when a readjustment of the specific rates will immediately affect the related rates, and where the testimony of each defendant is taken and considered separately, since the Commission, being a creature of the Legislature, with defined powers, and not a court, may proceed informally, within reasonable bounds. *In Re Eastern Colorado Coal Rates*.....48

2. The Commission may determine the reasonableness of all of the railroad passenger rates of the state under a single petition, where the testimony of each defendant is taken separately, since the Commission, being a creature of the Legislature, with defined powers, and not a court, may proceed informally, within reasonable bounds. *In Re Passenger Rates and Rules*.....35

3. The laws of Colorado enumerate by name all utilities which shall be under the jurisdiction of the Public Utilities Commission, and as steam furnishing utilities are not so specifically named the Commission is without jurisdiction over such utilities. *In Re Rates and Service of The Colorado Springs Light, Heat & Power Company*.....159

4. The Public Utilities Commission of the State of Colorado is not a court, but is a creature of the legislature, with its jurisdiction extend-

ing only to defined powers, and acts quasi-judicially as to the determination of facts only when relevant to the defined powers as set forth in the Public Utilities Law. *Cochems v. Denver & Rio Grande R. R. Company*.149

5. The Commission has no jurisdiction to entertain a petition alleging violations of the law prohibiting unfair competitions and illegal combinations in restraint of trade. *Castle Rock Mountain Railway & Park v. Denver Tramway Company, et al*.....104

6. The Colorado Public Utilities Commission has sole jurisdiction to regulate the rates and service of a street railway located in a city to the exclusion of the local authorities, although the city is governed under a special charter under the "home rule" amendment to the Constitution giving it power to control and to legislate in regard to the local, municipal and internal affairs, since such regulation arises through the police power of the state, is a matter of state-wide importance, and is in no sense a local, municipal or internal matter. *Idem.*

7. Where it appears that a railroad company has duly dissolved and surrendered its charter and has ceased to do business, pursuant to, and in the manner and form provided by the laws of the State of Colorado, the Commission is without power to enforce a previous order requiring the said carrier to operate its road. *City of Canon City v. Florence & Cripple Creek R. R. Co., et al*.....86

COMMODITIES.

Apples. See RATES, 11.

Coal. See RATES, 9, 11, 16, 17, 18, 20, 27, 28, 31, 41.

Rags. See RATES, 43; MISBILLING, 1.

Sacks. See RATES, 43.

COMMON CARRIERS.

See CARRIERS.

COMPARISON OF RATES.

Of common carriers. See RATES, 12, 13.

COMPETITION.

See COMMISSIONS, 5.

See RATES, 13, 14, 15, 17.

CONSTITUTION.

See CONSTITUTIONAL LAW, 1.

CONSTITUTIONAL LAW.

See also COMMISSIONS.

I. **Effect of prior law, 1.**

1. A statutory provision in the Railroad Commission Act of 1910 limited the orders of the Commission to two years, and while the Railroad Commission Act was automatically repealed by the Public Utilities Act of 1913, under a provision in the latter Act all orders and decisions of the Railroad Commission were validated and confirmed. *Breckenridge Chamber of Commerce v. Colorado & Southern Railway Company*.....137

CONSUMER.

Discrimination in rates and service. See DISCRIMINATION, 5, 6.

CONTRACTOR.

Profits of. See VALUATION, 1.

CONTRACTS.

See DISCRIMINATION, 2, 3, 6.
See NEGLIGENCE, 2, 3.
See RATES, 1.

COST OF REPRODUCTION.

See also VALUATION.
Consideration of, in valuation proceedings. See RETURN, 1, 2.

COSTS AND EXPENSES.

See VALUATION.

COURTS.

See COMMISSIONS.
See CONSTITUTIONAL LAW.

CROSSINGS, GRADE.

I. Protections at, 1-4.
II. Relocation of, 5.

I. Protections at grade crossings.

1. An electric safety gong ordered installed where evidence showed that protection afforded at grade crossing was insufficient. *In Re Protection at Crossing of Chicago, Burlington & Quincy Railroad at Yuma*..84

2. An electric safety gong ordered installed where evidence showed that protection afforded at grade crossing was insufficient. *In Re Protections at Grade Crossings of the Denver & Rio Grande Railroad Company at Lereaux Creek and Barrow Mesa*.....123

3. Electric safety device specifications as submitted by certain carriers tentatively approved by the Commission, and electric, audible and visible safety devices ordered installed where evidence showed that protection afforded at grade crossings was insufficient. *In Re Protections at Grade Crossings of Atchison, Topeka & Santa Fe Railway and Denver & Rio Grande Railroad at Mexico, Florida and Iowa Avenues in Denver*.....155

4. Electric safety device specifications as submitted by carrier tentatively approved by the Commission, and audible and visible electric safety device ordered installed where evidence showed that protection afforded at grade crossing was insufficient. *In Re Protection at Grade Crossing of Colorado & Southern Railway Company at 12th Street in Boulder*.....157

II. Relocation of grade crossings.

5. A carrier ordered to relocate at its own expense grade crossing where such relocation would result in minimizing dangers of said crossing. *In Re Protections at Grade Crossings of Denver & Rio Grande Railroad Company at Lereaux Creek and Barrow Mesa*.....123

DAMAGES.

Due to negligence. See NEGLIGENCE.

DELEGATION OF POWERS.

See COMMISSIONS.

DELIVERY.

Of telegraph messages. See SERVICE, 13.

DEMURRAGE.

I. In general, 1.
II. Rates, 2.
III. Rules, 3.

I. In general.

1. Narrow-gauge carriers exempt from order of Commission prescribing demurrage rates and rules. *In Re Demurrage Charges and Rules* 21

II. Rates.

2. In an investigation as to the reasonableness of demurrage charges, rate of $1.00 per car per day, or fraction of a day, after expiration of free time, found reasonable; except on refrigerator or insulated cars, on which rate of $1.00 per car per day for the first three days and $3.00 per car per day for each succeeding day after the expiration of free time, found reasonable. *In Re Demurrage Charges and Rules*..... 21

III. Rules.

3. In an investigation as to the reasonableness of demurrage rules and practices, the National Car Demurrage rules, with certain exceptions, were found reasonable and prescribed for intrastate shipments, with leave given to make applications for changes and revisions, as the rules were not considered inflexible. *In Re Demurrage Charges and Rules* 21

DEPRECIATED VALUE.

See VALUATION.

DEPRECIATION.

I. Method of computing, 1.
II. Annual allowances held reasonable, 2. 3.
a. Electric, 2.
b. Gas, 3.

I. Method of computing.

1. The straight line method, rather than the sinking fund method, of providing for depreciation was used in a valuation of an electric and gas utility for rate-making purposes, without the Commission approving or disapproving such basis, as the straight line method reflects more closely the practical conditions under which utility properties are generally managed; and the rate of return was based on the depreciated, or present, value. *In Re Colorado Springs Light, Heat & Power Company.* 159

II. Annual allowances held reasonable.

a. Electric.

2. After applying various rates of depreciation to items of depreciable electric property of an electric and gas utility, in a valuation for rate-making purposes, and using the straight line method, the composite depreciation of the electric property was found to be 4.25% of the cost new of the depreciable property, amounting to $52,000 annually; and that of the hydro-electric property was found to be 2.8%, amounting to $6,300 annually. *In Re Colorado Springs Light, Heat & Power Company.* 159

b. Gas.

3. After applying various rates of depreciation to items of depreciable gas property of an electric and gas utility, in a valuation for rate-making purposes, and using the straight line method, the composite depreciation of the gas property was found to be 3% of the cost new of the depreciable property, amounting to $20,000 annually. *In Re Colorado Springs Light, Heat & Power Company*.....159

DEVELOPMENT EXPENSES.

Of utilities, in valuation proceedings. See VALUATION, 2, 3.

DIFFERENTIALS.

In rates. See RATES, 17, 18.

DIRECTORS.

Reduced rates to. See DISCRIMINATION, 7.

DISCONTINUANCE OF SERVICE.

Of common carriers. See SERVICE, 12.

DISCRIMINATION.

See also CARRIERS, 1.
See also EVIDENCE, 3.
See also RATES, 5, 9.

I. Rates, 1-7.

a. In general, 1-3.

1. Railroads, 1.
2. Electric railways, 2, 3.

b. Free service and reduced rates, 4-8.

1. Charitable institutions, 4.
2. Consumers, 5, 6.
3. Employees, officers, directors and stockholders, 7.
4. Physicians and Surgeons, 8.

I. Rates.

a. In general.

1. Railroads.

1. The same commodity rate for a short haul as for a long haul was held discriminatory, although the mountainous character of the short-haul territory relatively increased the cost of such service, where such additional cost was less than the difference in rates that should exist between the long and short haul. *Colburn v. Florence & Cripple Creek Railroad Company*.....107

2. Electric railways.

2. The Commission may order an electric railway to file a schedule of rates for the rental of special cars to prevent discrimination in rates between scenic railways renting the cars, although the order abrogates a contract whereby one of the lessees pays a less rental than the other. *Castle Rock Mountain Railway & Park v. Denver Tramway Company*...126

3. A contract of an electric railway company to rent special cars at a specified rate to be operated over its road by a scenic railway for sight-seeing purposes is not a private contract, but provides for a public service, so that the Commission may regulate the rate to prevent discrimination against another scenic railway making a similar use of its cars. *Idem.*

b. **Free service and reduced rates.**

1. **Charitable institutions.**

4. Under the Public Utilities law, common carriers may transport freight free, to and from charitable institutions, and the Commission is without power to prohibit the free transportation to or from such institutions, when the shipments are made in accordance with the rules of the Commission; and the receiving and treating by a Relief Association Hospital of persons who are not contributing members of the association does not take the hospital from "Charitable institutions," as set forth in the Public Utilities law, when said hospital is maintained at a loss, or the compensation does not exceed what is required for the successful maintenance of the institution. *Cochems v. Denver & Rio Grande R. R. Company* 149

2. **Consumers.**

5. Special rates and privileges of utilities, even though due to circumstances not within their control, are discriminatory as between consumers, are illegal and must be discontinued. *In Re Colorado Springs Light, Heat & Power Company*.....159

6. The furnishing by an electric utility of free service to a consumer under the provisions of a contract, even though such contract was entered into prior to the passage of the Public Utilities law, is discriminatory and illegal. *Idem.*

3. **Employees, officers, directors and stockholders.**

7. The practice of furnishing electricity and gas free of charge, or at reduced rates, to employees, officers, directors and stockholders by a utility was declared illegal under the Public Utilities law, and ordered to be discontinued. *Idem.*

4. **Physicians and surgeons.**

8. Common carriers, under the Public Utilities law, are prohibited from granting free or reduced transportation to physicians and surgeons in the employ of a carrier's Relief Association, who do not devote their entire time to the work of the association, but the Commission is without power to prohibit the granting by carriers of free, or reduced, transportation to its physicians and surgeons when within the meaning of the law. *Cochems v. Denver & Rio Grande Railroad Company*.....149

DIVISIONS.

Between carriers. See RATES, 16, 24, 25, 26, 29.

DOMESTIC CURRENT.

Valuation apportioned to. See APPORTIONMENT, 1.

EARNINGS.

Apportionment of, in valuation proceedings. See APPORTIONMENT, 1, 3.

ELECTRICITY.

See APPORTIONMENT; DEPRECIATION; DISCRIMINATION; NEGLIGENCE; RATES; RETURN; SERVICE; VALUATION.

ELECTRIC RAILWAYS.

See CARRIERS; DISCRIMINATION; RATES; SERVICE.

EMPLOYEES.

Reduced rates to. See DISCRIMINATION, 7.

ENGINEERING.

Consideration of, in valuation proceedings. See RETURN, 1, 2.

EVIDENCE.

I. Burden of proof, 1.

II. Presumptions, 2, 3.

I. Burden of proof.

1. The question of burden of proof does not enter into the investigation of reasonableness of existing rates, where the Commission is endeavoring to get the facts which will show the reasonableness or unreasonableness of such rates. *In Re Eastern Colorado Coal Rates*.....48
In Re Passenger Rates and Rules.....35

II. Presumptions.

2. Upon an investigation as to the reasonableness of rates of steam railroads, it was held that every reasonable doubt in the minds of the Commission as to the reasonableness of such rates would be decided in favor of the railroad companies. *In Re Eastern Colorado Coal Rates*....48
In Re Passenger Rates and Rules.....35

3. It will be assumed that a commodity rate voluntarily established is not so low as to deprive the carrier of a fair return, in a proceeding attacking, as discriminatory, the same charge for transporting the commodity a shorter distance, so that the Commission, in finding the rate is discriminatory, will order a reduction for the short haul rather than an increase for the long haul. *Colburn v. Florence & Cripple Creek Railroad Company*.....107

EXCESS FARES.

On trains. See RATES, 4, 33, 34, 35.

EXPENSES.

Apportionment of, in valuation proceedings. See APPORTIONMENT, 1-3.

EXPRESS SERVICE.

On electric interurban railways. See SERVICE, 9.

EXTENSIONS.

Of gas mains. See SERVICE, 1-3.

Of telephone service. See SERVICE, 4.

FARES.

See RATES.

FRANCHISES.

See CARRIERS, 1.

FREE SERVICE.

See DISCRIMINATION.

FUNCTIONS OF COMMISSION.
See COMMISSIONS.

GAS.
See APPORTIONMENT; DEPRECIATION; RATES; RETURN; SERVICE; VALUATION.

GENERAL OFFICE EXPENSES.
Apportionment of, in valuation proceedings. See APPORTIONMENT, 2.

GOING VALUE.
Definition of. See VALUATION, 11.
Consideration of, in valuation proceedings. See RETURN, 1, 2.

GRADE CROSSINGS.
See CROSSINGS.

GUARANTEES.
For extensions of gas mains. See SERVICE, 1-3.

HOME RULE.
Jurisdiction of "home rule" municipalities over public utilities. See COMMISSIONS, 6.

HYDRO-ELECTRICITY.
See ELECTRICITY.

IMPAIRMENT OF CONTRACTS.
See DISCRIMINATION, 2.

INDEMNITY.
For negligence on or about properties of public utilities. See NEGLIGENCE.

INJURIES.
Due to negligence on or about properties of public utilities. See NEGLIGENCE.

INSURANCE.
Consideration of, in valuation proceedings. See RETURN, 1, 2.

INTEREST.
Consideration of, in valuation proceedings. See RETURN, 1, 2.

INTERSTATE RATES.
Compared with intrastate rates. See RATES, 12.

INTERURBAN RAILWAYS.
See ELECTRIC RAILWAYS.

INTRASTATE RAILWAYS.
See RATES.

INVESTMENT.
Consideration of, in valuation proceedings. See RETURN, 1, 2.

JURISDICTION OF COMMISSION.

See COMMISSIONS.

LAMPS.

Electric, efficiency of. See SERVICE, 5.

LONG AND SHORT HAUL.

As affecting freight rates. See DISCRIMINATION, 1: EVIDENCE, 3.

MAINS.

Extension of. See SERVICE, 1-3.

MARKET CONDITIONS.

As affecting freight rates. See RATES, 30.

MATERIALS AND SUPPLIES.

When considered as working capital, in valuation proceedings. See VALUATION, 8.

MILEAGE BOOKS.

See RATES, 39, 40.

MINIMUM CHARGE.

For electric current. See RATES, 3.

For gas. See RATES, 8.

MISBILLING.

I. In general, 1.

I. In general.

1. A car of rags having been misbilled, the Commission was of the opinion that a mode of punishment and penalty should be provided in Colorado for misbilling. *Radinsky v. Colorado & Southern Railway Company* 13

MONOPOLY.

Of telephone company, considered in ordering extension of service. See SERVICE, 4.

MUNICIPALITIES.

Complaint by, against electric rates. See RATES, 1.

Jurisdiction of, over public utilities. See COMMISSIONS, 6.

NEGLIGENCE.

I. On or about properties of public utilities, 1-3.

1. The Commission, in reviewing a rule or regulation of a public utility having reference to indemnity due to injury from negligence, is interested only in the reasonableness of the rule or regulation. *Primos Mining & Milling Company v. Colorado Power Company* 211

2. In considering a rule in a contract purporting to indemnify a utility operating a high power transmission line, by a user of its energy, from all demands and expenses for injury or damage to person or property incurred on the user's property, except such as occur to the utility's employees, the principles of the law of negligence are not relevant, the Commission being required to determine the reasonableness of the rule only. *Idem.*

3. A rule in a contract between a consumer and an electric utility, operating a high power transmission line across 1600 acres of lands of the consumer and thence to other consumers, requiring the user to indemnify the utility from all demands and expenses for injury or damage to person or property of the user, except injury or damage to the utility's employees, and not caused by the act or negligence of the utility, held unreasonable by the Commission. *Idem.*

OBLIGATIONS.

Of carriers. See CARRIERS, 1.

OFFICE EXPENSES.

Apportionment of, in valuation proceedings. See APPORTIONMENT, 2.

OFFICERS.

Reduced rates to. See DISCRIMINATION, 7.

ORGANIZATION EXPENSES.

Of utilities, in valuation proceedings. See VALUATION, 2, 3.

ORIGINAL COST.

Consideration of, in valuation proceedings. See RETURN, 1, 2.

ORIGINATING LINE.

To receive long haul on freight traffic. See RATES, 32.

PASSENGER FARES.

See RATES.

PENALTIES.

Excess train fares considered as. See RATES, 35.

PHYSICIANS.

Reduced rates to. See DISCRIMINATION, 8.

POLICE POWER.

Of the state, over public utilities. See COMMISSIONS, 6.

POWER.

Water power, value to electric utility. See VALUATION, 6.

POWERS OF COMMISSION.

See COMMISSIONS.

PRESENT VALUE.

See also VALUATION.

Consideration of, in valuation proceedings. See RETURN, 1, 2.

PRESUMPTIONS.

Of reasonableness of rates. See EVIDENCE, 2, 3.

PRIOR LAW.

Effect of. See CONSTITUTIONAL LAW, 1.

PROCEDURE OF COMMISSION.

See COMMISSIONS.

PROPERTY.
Valuation of. See VALUATION.

PROTECTIONS.
At grade crossings. See CROSSINGS.

PUBLIC UTILITIES.
See CARRIERS; ELECTRICITY; ELECTRIC RAILWAYS; GAS; RAILROADS; TELEPHONE; TELEGRAPH.

PUBLIC UTILITIES COMMISSION.
See COMMISSIONS.

RAILROAD COMMISSION.
See CONSTITUTIONAL LAW, 1.

RAILROADS.
See CARRIERS; CROSSINGS; DEMURRAGE; MISBILLING; RATES; REPARATION.

RATE OF RETURN.
See RETURN.

RATES.
Burden of proof, as to reasonableness of. See EVIDENCE, 1.
Demurrage. See DEMURRAGE, 2.
Discrimination in. See DISCRIMINATION, 1, 2; EVIDENCE, 3.
Long and short haul. See DISCRIMINATION, 1; EVIDENCE, 3.

I. **Reasonableness of,** 1-44.
- a. **Electricity,** 1-3.
  - 1. **In general,** 1, 2.
  - 2. **Minimum charge,** 3.
- b. **Electric railways,** 4, 5.
  - 1. **Excess fares,** 4.
  - 2. **Volume of traffic,** 5.
- c. **Gas,** 6-8.
  - 1. **In general,** 6, 7.
  - 2. **Minimum charge,** 8.
- d. **Railroads,** 9-44.
  - 1. **Blanket,** 9, 10.
  - 2. **Commodities,** 11.
  - 3. **Comparison,** 12, 13.
  - 4. **Competing line,** 14, 15.
  - 5. **Competition,** 16.
  - 6. **Differentials,** 17, 18.
  - 7. **Distance,** 19-23.
  - 8. **Divisions,** 24-26.
  - 9. **Equalization,** 27.
  - 10. **Group,** 28.

11. Increases, 29.
12. Market conditions, 30.
13. Maximum, 31.
14. Originating line, 32.
15. Passenger fares, 33-40.
16. Relation, 41.
17. Value of service, 42.
18. Voluntary, 43. 44.

I. Reasonableness of rates.

a. Electricity.

1. In general.

1. Municipality not being in position to contract with a generating company for purchase of electric energy and distribution thereof, question of reasonableness of rates charged distributing company by generating company held not in question in investigation as to the reasonableness of the rates charged by the distributing company. *City of Florence v. Arkansas Valley Electric Company, et al*.....75

2. The rate of return upon the electric and hydro properties of a utility having been found to be 12.27%, in a valuation for rate-making purposes, the rates and charges for electricity were found to be unreasonable, and reasonable rates were prescribed which would yield a return of not less than 7½%. *In Re Colorado Springs Light, Heat & Power Company*.....159

2. Minimum charge.

3. A minimum monthly charge of $1.50 for electricity having been found unreasonable, a charge of $1.00 for domestic and commercial use was fixed as reasonable. *City of Florence v. Arkansas Valley Electric Company, et al*.....75

b. Electric railways.

1. Excess fares.

4. Electric and interurban railways exempt from order permitting steam railroads to charge train fares, in excess of ticket fares, collected from passengers not provided with tickets who have had reasonable opportunity to purchase them. *In Re Additional Train Fares*.....9

2. Volume of traffic.

5. While the large shipper or consumer should not have an advantage in rate over the small consumer on the basis of quantity alone, yet it does not result in unjust discrimination where the expense or difficulty of performing the service justifies a difference in rates proportionate to the cost of service. *Castle Rock Mountain Railway & Park v. Denver Tramway Company*.....126

c. Gas.

1. In general.

6. While a public utility is entitled to earn a reasonable return upon the present fair value of its properties, the consuming public is required to pay only the reasonable value for the service or commodity furnished, and in a valuation of the gas properties of a utility for rate-making purposes a rate of $1.00 per 1,000 cubic feet was found to be reasonable where the return on such properties was but 1.16%. *In Re Colorado Springs Light, Heat & Power Company*.....159

7. Where the gas properties of a utility were shown to be earning only 1.16% the company was given leave to petition for an increase in rates, together with sufficient showing as to the justification for such increase, although the Commission was of the opinion that an increase in rates would be met by a decrease in consumption and the revenues be decreased rather than increased. *Idem.*

2. Minimum charge.

8. A monthly minimum charge of 50 cents per meter for gas was found to be reasonable and to be the average minimum charge of gas utilities over the state. *In Re Colorado Springs Light, Heat & Power Company* 159

d. Railroads.

1. Blanket.

9. Blanket rates, implying of necessity a discrimination between points on the near and far edges of the group and consequently between points just across the line, disregard distance, and the Commission, in prescribing reasonable rates, eliminated the system of blanketing rates on coal to eastern Colorado. *In Re Eastern Colorado Coal Rates*..... 48

10. All fruit shipping points on the Western Slope being blanketed as one originating group in rates to Colorado common points and east thereof, the Commission finds such basis reasonable and does not disturb same. *Grand Valley Fruit Freight Rate Association v. Denver & Rio Grande Railroad Company, et al*..... 111

2. Commodities.

11. Rates on bulk apples at somewhat less than rate on apples in packages would be more detrimental than helpful to shippers, although Commission holds that special rates should be applicable to wind-fall, cull, refuse and waste apples, and so orders, until such time as carriers may make a conclusive showing as to the unfeasibility of such rates. *Grand Valley Fruit Freight Rate Association v. Denver & Rio Grande Railroad Company, et al*..... 111

3. Comparison.

12. Intrastate rates should not be depressed to harmonize with interstate rates, which rates have been established for the purpose of extending the markets of shippers within the state. *Greeley Gas & Fuel Company v. Colorado & Southern Railway Company, et al*..... 197

13. Voluntary rates established by carriers under highly competitive conditions are not a fair measure of comparison with rates between points where little or no competition exists. *Idem.*

4. Competing line.

14. In determining reasonableness of rates, short line rate is factor considered by Commission. *In Re Eastern Colorado Coal Rates*..48

15. In determining the reasonableness of rates between certain points, between which two or more carriers compete, due consideration must be given to each line as the facts in each particular case warrant. *Greeley Gas & Fuel Company v. Colorado & Southern Railway Company, et al.* 197

5. Competition.

16. Upon an originating line voluntarily agreeing to assume the burden of disability in distance, necessary to meet competition, in division of joint through rates on coal, and taking cognizance of highly competitive market conditions, the Commission ordered through rates

from coal producing districts on the carrier's line on basis of rates from competing districts, without prescribing divisions. *In Re Eastern Colorado Coal Rates*.....48

6. Differentials.

17. Differentials in effect between various coal producing districts in the state adhered to by the Commission in consideration of, and in decision determining, the reasonableness of coal rates. *In Re Eastern Colorado Coal Rates*.....48

18. Rates on coal from the Walsenburg district to Denver are used as the standard to base rates to eastern Colorado points, particularly when moving through the Denver Gateway, and rates from other coal producing districts take established differentials over or under the Walsenburg rate. *Greeley Gas & Fuel Company v. Colorado & Southern Railway Company, et al*.....197

7. Distance.

19. Rate per ton per mile should ordinarily decrease in inverse ratio to the ever-increasing distance. *In Re Eastern Colorado Coal Rates*.....197

20. Where the rates on coal to eastern Colorado points were found to be unreasonable the transportation and operating conditions on the prairie lines were not so dissimilar as to preclude the consideration of the rates being revised by distributing the spread between the lowest and highest rates along the line according to mileage, resulting in the rate per ton per mile decreasing in inverse ratio to the ever-increasing distance. *Idem.*

21. Where rates on coal to eastern Colorado points varied from one to five cents per ton per mile the Commission, in prescribing reasonable rates, fixed no rates, except for very long hauls, at less than one cent per ton per mile, the conditions surrounding the transportation of coal being such that the rate should be less per ton per mile than on other commodities. *Idem.*

22. Rates per ton per mile are valuable for comparative purposes only, and cannot be used as a guide in the determination of the reasonableness of rates. *Greeley Gas & Fuel Company v. Colorado & Southern Railway Company, et al*.....197

23. It is a general proposition that the rate per ton per mile should decrease as the distance increases, and this is particularly true of long hauls. *Idem.*

8. Divisions.

24. Upon small carrier, needing additional revenue to meet operating expenses, showing that in the division of proposed increase in joint freight rates its connecting lines would receive less than 6% of the increase, authority was granted to make the increase effective. *In Re Advance in Freight Rates of Denver, Boulder & Western Railroad Company.*.....48

25. The Commission will not attempt to establish the division of rates between any two or more carriers, unless the carriers fail to agree among themselves. *In Re Eastern Colorado Coal Rates*.....48

26. The Commission will not allow the introduction of divisions of rates into testimony, nor will it consider divisions, where the question of divisions is not relevant to the determination of the reasonableness of rates per se. *Greeley Gas & Fuel Company v. Colorado & Southern Railway Company, et al*.....197

9. Equalization.

27. There having been no established basis in effect in the making of coal rates to eastern Colorado points, in relation of one point of destination to another, the Commission endeavored to equalize such existing

inequalities in prescribing reasonable rates. *In Re Eastern Colorado Coal Rates* 48

10. Group.

28. System in vogue of carriers grouping all mines in a coal-producing district at one rate found just and reasonable and not disturbed. *In Re Eastern Colorado Coal Rates*.... 48

11. Increases.

29. Upon railroad showing insufficiency of revenues to meet operating expenses authority was granted to increase freight rates. *In Re Advance in Freight Rates of Denver, Boulder & Western Railroad Company* 233

12. Market conditions.

30. The high cost of production to a shipper does not of itself determine the reasonableness of a rate, and the adequacy of the revenue derived by the carrier for the service performed must take precedence over market conditions affecting the commodity transported. *Grand Valley Fruit Freight Rate Association v. Denver & Rio Grande Railroad Company, et al*..... 111

13. Maximum.

31. The transportation of slack and mine run coal carrying special conditions and requirements, and competition, so dissimilar to that of lump coal, the Commission in determining the reasonableness of coal rates to eastern Colorado, did not prescribe any rates for coal, other than lump, except to fix the lump rates as maxima on all classes of soft coal. *In Re Eastern Colorado Coal Rates*..... 48

14. Originating line.

32. Originating lines generally are entitled to the longest haul they can perform where the transportation can be performed upon equal terms, with reasonable dispatch and without undue discrimination, and the shipper has no cause for complaint so long as the rates and service be fair and reasonable and shipments handled with reasonable dispatch. *Greeley Gas & Fuel Company v. Colorado & Southern Railway Company, et al.* 197

15. Passenger Fares.

33. Common carriers in Colorado should uniformly charge passengers who board trains without providing themselves with tickets, in case they have had opportunity to do so, an excess fare or something more than the ticket rates. *In Re Additional Train Fares*..... 9

34. Excess fares, or train rates, should be collected from passengers who, without reasonable excuse, board trains without having purchased tickets, since the primary object of charging train rates, in excess of ticket rates, is to induce passengers to purchase tickets so as to enable conductors to have time to devote to the proper and safe handling of their trains. *Idem.*

35. Train fares, in excess of ticket rates, collected from passengers, not provided with tickets, who have had reasonable opportunity to purchase them, should be considered a penalty and retained by the carrier rather than refunded by means of a refund check. *Idem.*

36. A passenger rate of 5 cents a mile from Pueblo to Canon City and a rate of 4 cents a mile between Pueblo, Walsenburg and Trinidad is unreasonable; and the territory, being comparatively level, should be served at a rate not to exceed 3 cents a mile. *In Re Passenger Rates and Rules*..... 35

37. The Commission will not make one maximum passenger rate per mile for the state, owing to geographical conditions, part of the territory being mountainous and part level. *Idem.*

38. The maximum rate per mile for passenger transportation on railroads traversing the mountainous area of Colorado was fixed by the Commission at a sum of not to exceed 4 cents a mile, with certain exceptions, and the maximum rate of passenger traffic traversing the prairies and valleys of the state was fixed at a rate not to exceed 3 cents per mile, with the understanding that the rules and regulations of the Commission concerning mileage books should be strictly observed by the companies operating in this territory. *Idem.*

39. Mileage books entitling passengers to travel in the prairie and valley territory of Colorado on the basis of 2½ cents a mile should be good for the holder or any member of his immediate family, since the family mileage book will stimulate travel and be of great benefit to the traveling public. *Idem.*

40. The owner of a mileage book sold by a railroad company operating for passenger travel in the mountainous territory of Colorado should travel at a rate not to exceed 3 cents a mile, with certain exceptions, and a mileage book should entitle the holder or any member of his immediate family to transportation within the state. *Idem.*

16. Relation.

41. Rates from various coal-producing districts in the state bear a definite and long-established relation to each other on interstate traffic and, to a certain extent, on intrastate traffic. *In Re Eastern Colorado Coal Rates*.....48

17. Value of service.

42. Rates on fruit should be sufficiently remunerative to properly provide for elements such as risk in handling, prompt delivery, efficiency of service, etc. *Grand Valley Fruit Freight Rate Association v. Denver & Rio Grande Railroad Company, et al*.....111

18. Voluntary.

43. Voluntary rate in effect both prior and subsequent to date of complainant's shipments prima facie evidence as to reasonableness of some rate ad interim. *Radinsky v. Florence & Cripple Creek Railroad Company, et al*.....13

44. It will be assumed that a commodity rate voluntarily established is not so low as to deprive the carrier of a fair return, in a proceeding attacking, as discriminatory, the same charge for transporting the commodity a shorter distance, so that the Commission, in finding the rate is discriminatory, will order a reduction for the short haul rather than an increase for the long haul. *Colburn v. Florence & Cripple Creek Railroad Company*.....107

REASONABLENESS OF RATES.

See RATES.

REDUCED RATES.

See DISCRIMINATION.

RELIEF ASSOCIATION HOSPITAL.

Reduced rates to. See DISCRIMINATION.

REPARATION.

I. **Railroads**, 1.

1. Where a rate charged for transporting shipments was found to be unreasonable, reparation was awarded to the extent that the charges exceeded the charges based on the rate found to be reasonable. *Radinsky v. Florence & Cripple Creek Railroad Company, et al*.....13

REPRODUCTION COST.

See also VALUATION.

Consideration of, in valuation proceedings. See RETURN, 1, 2.

RESTRAINT OF TRADE.

Jurisdiction of Commission over. See COMMISSIONS, 5.

RETURN.

Fair return to carriers, in voluntary rates. See EVIDENCE, 3.

Fair return to electric utilities, considered in reasonableness of rates. See RATES, 2.

Fair return to gas utilities, considered in reasonableness of rates. See RATES, 6.

Immediate return to telephone utility in extension of service. See SERVICE, 4.

I. **Reasonableness of particular amounts**, 1, 2.

a. **Electric**, 1.

b. **Gas**, 2.

I. **Reasonableness of particular amounts.**

a. **Electric.**

1. In a valuation for rate-making purposes of an electric and gas utility, after considering all the elements necessary to determine a fair value, such as original cost, cost of reproduction, investment, present value, preliminary organization and development cost, engineering and supervision, interest, insurance, going value, etc., the fair value of the electric and hydro properties was found to be $1,481,762 and the rate of return thereon 12.27%. *In Re Colorado Springs Light, Heat & Power Company* 159

b. **Gas.**

2. In a valuation for rate-making purposes of an electric and gas utility, after considering all the elements necessary to determine a fair value, such as original cost, cost of reproduction, investment, present value, preliminary organization and development cost, engineering and supervision, interest, insurance, going value, etc., the fair value of the gas property was found to be $710,917 and the rate of return thereon 1.16%. *In Re Colorado Springs Light, Heat & Power Company*.....159

REVENUES.

Apportionment of, in valuation proceedings. See APPORTIONMENT, 1, 3.

RULES.

Demurrage. See DEMURRAGE, 3.

Of electric utilities, in reference to negligence. See NEGLIGENCE, 1-3.

Of gas utilities, for extensions. See SERVICE, 2.

SAFETY DEVICES.

As protections at crossings. See CROSSINGS, 1-4.

SANITATION.

Of electric interurban railway cars. See SERVICE, 10.

SCENIC RAILWAYS

Discrimination against. See DISCRIMINATION, 2, 3.

SERVICE.

I. **Extensions**, 1-4.
II. **Of particular utilities**, 5-13.
  a. **Electric**, 5.
    1. **Lamps**, 5.
  b. **Electric railways**, 6-11.
    1. **Adequacy**, 6, 7.
    2. **Baggage**, 8.
    3. **Express**, 9.
    4. **Sanitation**, 10.
    5. **Stopping interurban cars at city streets**, 11.
  c. **Railroads**, 12.
    1. **Adequacy**, 12.
  d. **Telegraph**, 13.
    1. **Delivery of messages**, 13.

I. **Extensions.**

1. The reasonableness of guarantees and rules for extension of mains can only be determined by the circumstances, and facts peculiar to each case, and it is impractical to establish a precedent fixing a standard and inflexible rule. *Haines v. Colorado Springs Light, Heat & Power Company*.....145

2. A rule of a gas company requiring a prospective consumer to assume a portion of the responsibility, by guaranteeing to use sufficient gas in three years, at current rates, for the extension of mains, held reasonable, and such rule does not, as alleged, compel citizens to pay for permanent additions to the company's plant. *Idem.*

3. Before extending its mains to serve a tenant house facing a side street, a gas company may demand a guaranty that enough gas will be used in three years to cover at least the actual cost of construction, it appearing that there is no other necessity therefor, and that it is extremely doubtful whether other houses will be built on such street. *Idem.*

4. A telephone company having the advantages of a natural monopoly within the boundaries of a state should make every effort to serve all communities within such state, and to extend its lines to include such towns not served by said company, although the investment does not immediately earn a fair return to the company, and in this way make its service of greater value to its present subscribers and to the state at large. *In Re Extension of Telephone Service to Bovina, etc*.....194

II. Of particular utilities.

a. Electric.

1. Lamps.

5. Tungsten lamps requiring only 50 per cent of energy necessary for carbon filament lamps of same voltage, a company was ordered to place tungsten lamps on sale. *City of Florence v. Arkansas Valley Electric Company, et al*.....75

b. Electric railways.

1. Adequacy.

6. An interurban railway with a running schedule of about one hour was ordered to attach a trailer to its cars upon leaving the starting point, and upon leaving, in either direction, a station about midway between the terminal points, whenever the seating capacity of the original car was filled, and at such other times as the conductor, in his discretion and from his experience, has reason to expect a congested condition of travel upon that trip. *In Re Service and Rules of Denver & Interurban Railroad Company*.....69

7. Additional service ordered by the Commission on interurban railways where crowded condition of cars obtains. *In Re Service of Denver & Inter-Mountain Railroad Company*.....67

2. Baggage.

8. The Commission refused to require an interurban railway to install baggage service for the convenience of its passengers, where it appeared that a steam railroad operated between all the towns through which the interurban railway passed, and that an arrangement could and would be made between the steam railroad and the interurban railway whereby the purchaser of a ticket upon the latter could, by paying a small sum in addition, check his baggage over the steam railroad. *In Re Service and Rules of Denver & Interurban Railroad Company*.....69

3. Express.

9. The Commission refused to require an interurban railway to install an express service upon its road, where a steam railroad operated between all the stations through which the interurban railroad operated. *In Re Service and Rules of Denver & Interurban Railroad Company*.....69

4. Sanitation.

10. An interurban railway with a running schedule of about one hour was ordered to clean certain of its cars which were in operation about eighteen hours a day, upon their arrival at the terminal point during the afternoon, which cleaning was to be done in addition to the daily cleaning which the railway company had previously been doing. *In Re Service and Rules of Denver & Interurban Railroad Company*.....69

5. Stopping interurban cars at city streets.

11. An interurban railway which had not been stopping its cars between the terminal point in a city and the city limits was ordered to stop its outbound cars at certain streets for the convenience of many suburban passengers who desire to take the cars at some point between the terminal stop and the city limits. *In Re Service and Rules of Denver & Interurban Railroad Company*.....69

c. Railroads.

1. Adequacy.

12. Adequate passenger and freight train service ordered by Commission where discontinuance results in unduly circuitous routing. *Breckenridge Chamber of Commerce v. Colorado & Southern Railway Company*.....137

d. Telegraph.

1. Delivery of messages.

13. It is a policy of telegraph companies to transmit messages by telephone to addressees located without the free delivery limits in large cities, to afford a more rapid service to their patrons and at the same time eliminate the delivery charges. *In Re Delivery Charges of Telegraph Companies* 142

STATUTES.

See CONSTITUTIONAL LAW.

STORES AND SUPPLIES.

When considered as working capital, in valuation proceedings. See VALUATION, 8.

STOCKHOLDERS.

Reduced rates to. See DISCRIMINATION, 7.

STRAIGHT LINE.

Method of computing depreciation. See DEPRECIATION, 1.

STREET RAILWAYS.

See ELECTRIC RAILWAYS.

SUPPLIES.

When considered as working capital, in valuation proceedings. See VALUATION, 8.

SURGEONS.

Reduced rates to. See DISCRIMINATION, 8.

TELEGRAPH.

Delivery of messages. See SERVICE, 13.

TELEPHONE.

Extension of service. See SERVICE, 4.

TON MILE REVENUE.

Considered in reasonableness of rates. See RATES, 20-23.

TRAIN SERVICE.

See SERVICE, 6, 7, 12.

TRANSMISSION LINE.

Negligence in connection with. See NEGLIGENCE, 1-3.

VALUATION.

See also APPORTIONMENT.

I. Special elements affecting value, 1-3.
  a. Contractors' profits, 1.
  b. Organization and development expenses, 2, 3.
II. Tangible property, 4-10.
  a. Property in use or useful, 4.
  b. Property not in use or useful, 5, 6.
  c. Working capital, 7-10.

III. Intangible property, 11, 12.
a. Going value, 11.
b. Water rights, 12.
f. Special elements affecting value.
a. Contractors' profits.
1. In a valuation of an electric and gas utility for rate-making purposes ten per cent was allowed as contractors' profits on the particular items which must necessarily include work done under contract. *In Re Rates and Service of the Colorado Springs Light, Heat & Power Company* 159
b. Organization and development expenses.
2. In a valuation for rate-making purposes, preliminary organization and development expense to the amount of $79,125 was found reasonable where the value of the electric property was found to be $1,481,762. *In Re Rates and Service of the Colorado Springs Light, Heat & Power Company* 159
3. In a valuation for rate-making purposes, preliminary organization and development expense to the amount of $20,000 was included in the present fair value of the gas property of a utility, used or useful in the public service, which was fixed at $710,917. *Idem.*
II. Tangible property.
a. Property in use or useful.
4. In a valuation of the property of an electric and gas utility for rate-making purposes the cost new and the depreciated present value cover only the property in use or useful in the public service. *In Re Rates and Service of Colorado Springs Light, Heat & Power Company*..... 159
b. Property not in use or useful.
5. In a valuation of the electric properties of a utility for rate-making purposes an item of $11,966 was disallowed in ascertaining the present fair value, as the item represented the value of a 500 k.w. vertical steam turbine which was not in use or useful. *In Re Rates and Service of Colorado Springs Light, Heat & Power Company*..... 159
6. In a valuation for rate-making purposes where it appeared that an electric company operated a hydro plant and that such plant was clearly auxiliary to its steam generating plant, the steam plant being of sufficient capacity to carry the entire load, the water power was determined to be of no value, inasmuch as no saving was made by its use, the value of the hydro plant being in break-down service and the saving in coal expense, which were entirely offset by maintenance and operating expense, interest and depreciation. *Idem.*
c. Working capital.
7. In a valuation for rate-making purposes, $1,500 having been found excessive, $1,000 was allowed as working capital, to be included in the estimated cost of reproduction new less depreciation of the electric property of a utility used or useful in the public service, which was fixed at $25,561. *City of Florence v. Arkansas Valley Electric Company, et al.* 75
8. Working capital should be an amount sufficient to take care of the operating expenses of a company until the revenue from operations is sufficient for that purpose, and include in addition stores and supplies, merchandise for sale, coal in storage and for immediate use, and a general cash balance for which the customer is not directly responsible. *In Re Rates and Service of Colorado Springs Light, Heat & Power Company*..159

9. In a valuation for rate-making purposes where it appeared that an electric company operated a hydro plant and that such plant was clearly auxiliary to its steam generating plant, the steam plant being of sufficient capacity to carry the entire load, the water power was determined to be of no value, inasmuch as no saving was made by its use, the value of the hydro plant being in break-down service and the saving in coal expense, which were entirely offset by maintenance and operating expense, interest and depreciation. *Idem.*

10. In a valuation for rate-making purposes, $22,500 having been found excessive, $15,000, exclusive of stores and supplies, was allowed as working capital to be included in the present fair value of the gas property of a utility, used or useful in the public service, which was fixed at $710,917. *Idem.*

III. Intangible property.

a. Going value.

11. While it is recognized that there is a difference between a plant with a developed business and one without it, and that there is an added value on this account to be taken into consideration, an amount as indicated by early deficits is only an indication, and not a measure, of the amount to be allowed as going value, and the Commission in making a valuation of an electric and gas utility for rate-making purposes, valued the property as a going concern, but designated no specific amount for going value. *In Re Rates and Service of Colorado Springs Light, Heat & Power Company*.....159

b. Water rights.

12. An annual operating expense for payment of interest on an option for a water right, as well as the alleged value of the water right, were disallowed in the valuation of an electric and gas utility for rate-making purposes, where it appeared that the water right was not, and could never be, used or useful in the public service. *In Re Rates and Service of Colorado Springs Light, Heat & Power Company*.....159

VALUES.

Apportionment of, in valuation proceedings. See APPORTIONMENT, 1, 3.

VOLUME OF TRAFFIC.

Considered in reasonableness of rates. See RATES, 5.

WATER POWER.

Value of, to electric utilities. See VALUATION, 6.

WATER RIGHTS.

Value of, to electric utilities, considered in valuation proceedings. See VALUATION, 7, 8, 9, 10.

WORKING CAPITAL.

Consideration of, in valuation proceedings. See VALUATION, 7, 8, 9, 10.

SECTION 2

GENERAL ORDERS

GENERAL ORDER No. 3.

Regulations Prescribing the Form and Governing the Filing and Publication of Rate Schedules of Electrical Corporations, Gas Corporations and Municipalities.

Ordered: 1.—Under and by virtue of the authority conferred upon this Commission by the Public Utilities Act, every electrical corporation, gas corporation and municipality subject to the jurisdiction of this Commission shall, on or before April 10, 1915, publish and file with the Commission schedules showing all rates and charges made, established, or enforced, or to be charged or enforced, and all rules and regulations relating to rates, charges, or service used or to be used, and all general privileges and facilities granted or allowed applying generally throughout the territory served by such electrical corporations, gas corporations, or municipalities, except (a) such as apply to electricity furnished or to be furnished to street or other railroad corporations primarily for the propulsion, lighting and heating of cars; and (b) such as apply to gas or electricity furnished or to be furnished to other gas corporations or electrical corporations for re-sale; and (c) such as apply to gas or electricity when to be furnished as a special service for a particular occasion covering a limited period of time not exceeding twenty consecutive days for any such occasion.

Further Ordered: 2.—Contracts as specified in Rule 1, exceptions (a), (b) and (c), shall not be contained in the schedule of general rates, but shall be filed separately. It will not be necessary for corporations or municipalities to file certified copies of contracts which are now in effect. A condensed statement or summary in concise terms and explanations of all of its contracts in effect at the present time will be sufficient. Each electrical corporation, gas corporation or municipality shall file with the Commission a certified copy of each and every contract with street or other railroad corporations, and other gas corporations or electrical corporations, covering the furnishing of gas or electricity for the purposes stated in exceptions (a) and (b) entered into after April 10, 1915, within five days from the date of its execution. A certified copy of each and every contract covering special service for particular occasions as provided in exception (c), shall be filed with the Commission as soon after execution as is practicable.

Further Ordered: 3.—All schedules shall bear a number with the following prefix thereto: "Colo. P. U. C. No...." Schedules must be numbered in consecutive serial order, commencing with number 1. Gas schedules and electric schedules must be separately issued, and under separate Colo. P. U. C. series.

Further Ordered: 4.—All schedules must be printed or typewritten on hard paper of good quality of size 8½ x 11 inches. Typewritten carbon copies will not be accepted.

Further Ordered: 5.—The title page of every schedule shall show:

a. Colo. P. U. C. number of the schedule in the upper right hand corner, and immediately thereunder the number or numbers of schedules superseded thereby, if any. For example:

"Colo. P. U. C. No. 2
Cancels
Colo. P. U. C. No. 1."

b. The name in full of the issuing corporation or municipality.

c. The territory or territories supplied.

d. The date of issue.

e. The effective date.

f. The name, title and address of the officer by whom the schedule is issued.

Further Ordered: 6.—All schedules, or supplements, filed with the Commission shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, to the following effect:

"LETTER OF TRANSMITTAL.

(Name of Corporation or Municipality.)
Place and Date.....
Advice No....
To the Public Utilities Commission of the State of Colorado.
Denver, Colorado.

Accompanying schedule issued by the above named corporation is sent you for filing in compliance with the requirements of the Public Utilities Act:

Supplement No.... to Colo. P. U. C. No....
Original Colo. P. U. C. No....
(Name of Corporation or Municipality.)
(Signature of Officer Transmitting.)"

The first transmittal to be used shall be Advice No. 1 and subsequent transmittals shall be used in consecutive order.

Further Ordered: 7.—Failure to observe and comply with the foregoing order will render electrical corporations, gas corporations, or municipalities, liable to penalty prescribed by Section 66 (a) of the Public Utilities Act. On September 25, 1914, the Commission furnished to all such utilities copies of General Order No. 2, which required all utilities to "immediately file with this Commission schedules showing all rates, tolls, rentals, charges and classifications collected or enforced, together with all rules, regulations, contracts, privileges, and facilities which in any manner affect or relate to rates, tolls, rentals, classifications, or service."

SHERIDAN S. KENDALL, Chairman,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,

Commissioners.

Dated at Denver, Colorado, this 31st day of March, 1915.

GENERAL ORDER No. 4.

In the Matter of Filing of Time Tables, of Posting Notices of Changes in Times of Arrival and Departure of Regular Passenger Trains and the Discontinuance of Any Passenger Train; also in the Matter of a Change in Location or an Abandonment of Any Depot or Station Building, and the Abandonment of an Agency at Any Depot.

Effective June 15, 1915.

It Is Hereby Ordered, That each railroad corporation operating between points in the State of Colorado shall hereafter file with this Commission three (3) copies of its working time schedules, in so far as the same affect the movements of passenger trains within the State of Colorado, and all changes therein and amendments thereto, at least five (5) days before their effective date.

It Is Further Ordered, That when any change is made by a railroad corporation in the time of arrival or departure of a regular passenger train, or when any regular passenger train is to be discontinued, such information shall be posted by such railroad corporation in a conspicuous place in each station affected by the change, where an agent is maintained, at least five (5) days before such change or changes become effective.

It Is Further Ordered, That before any railroad corporation shall move or abandon any depot or station building, or abandon an agency at any station, or discontinue any regular passenger train, said railroad company shall file a statement of such contemplated changes with this Commission at least ten (10) days before their effective date.

M. H. AYLESWORTH.
(SEAL) GEO. T. BRADLEY,
Commissioners.

Dated at Denver, Colorado, this 1st day of June, 1915.

GENERAL ORDER No. 5.

Regulations Governing the Operation of Automobiles, Motor Vehicles, or Other Vehicles Whatever, for Public Use in the Conveyance of Passengers or Property in the State of Colorado.

Effective July 27, 1915.

Ordered: Under and by virtue of the authority conferred upon this Commission by the Public Utilities Act, as amended July 12, 1915, every person, association of persons, incorporated or otherwise, operating automobiles, motor vehicles, or other vehicles whatever, for the conveyance of passengers or property, shall register and file with this Commission the information required on the blank form provided for that purpose. In addition to the foregoing, they shall give immediate notice to the Commission of every accident in connection with the operation of motor or other vehicles resulting in injury to persons, loss of life or damage to property.

(SEAL)

S. S. KENDALL,
GEORGE T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 27th day of July, 1915.

GENERAL ORDER No. 6.

In the Matter of Providing Seating Accommodations in Pullmans When All Seating Space in Coaches Is Occupied.

Effective July 12, 1915.

To All Railroads Within the State of Colorado:

You, and each of you, are hereby ordered to provide seating room for each and every passenger riding on your passenger trains, whether the train be intrastate or interstate.

It Is Further Ordered by this Commission, That in the event you are unable to provide seating room for a passenger provided with a ticket entitling the owner thereof to transportation between points on your railroad, the conductor or auditor in charge of said train shall immediately provide seating room for said passenger in a Pullman car, either tourist or standard, in the event that said train is equipped with Pullman service, without additional expense to said passenger.

This order to become effective at once.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 12th day of July, 1915.

GENERAL ORDER No. 7.

In the Matter of the Discontinuance of Any Passenger Train; Also in the Matter of a Change in Location or Any Abandonment of Any Depot or Station Building, and the Withdrawal or Abandonment of Any Agency at Any Depot or Station.

Effective September 13, 1915.

Whereas, Certain railroad corporations, operating between points in the State of Colorado, have failed or neglected to comply with P. U. C. General Order No. 4, effective June 15, 1915;

It Is Now Ordered, That before any railroad corporation shall move or abandon any depot or station building, or withdraw or abandon an agency at any station, or discontinue any regular passenger train, the said railroad company shall file a communication in writing with this Commission of such contemplated changes, at least ten (10) days before their effective date, calling the attention of this Commission to the said changes and stating the reasons therefor.

S. S. KENDALL,
(SEAL) M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 13th day of September, 1915.

GENERAL ORDER No. 8.

Governing the Monthly Filing of Railway Accident Reports.

Effective January 1, 1916.

It Is Ordered, That the rules of the Interstate Commerce Commission entitled "Rules Governing Monthly Reports of Railway Accidents," revision of 1915, effective July 1, 1915, be, and they are hereby, approved and adopted as the rules governing the filing of monthly reports of railway accidents occurring within the State of Colorado, and

It Is Further Ordered, That all common carriers file monthly reports of all accidents occurring within the State of Colorado, upon blank forms furnished by the Commission, within thirty days after the last day of the month reported, and that all common carriers be governed by the said rules in the preparation and submission of the said monthly reports on and after January 1, 1916.

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 30th day of December, 1915.

SECTION 3.

ACCIDENT REPORTS.

REPORT OF COMMISSIONER KENDALL TO THE COMMISSION OF DERAILMENT TO TRAIN NO. 15 ON THE DENVER & RIO GRANDE RAILROAD, NEAR FOUNTAIN, COLORADO, ON FEBRUARY 22, 1915.

To the Commission:

Passenger train No. 15 on the Denver & Rio Grande Railroad, which left Denver at 7:45 p. m., February 22, 1915, was derailed and wrecked at a point approximately 2¼ miles south of Fountain, and about 90 miles south of Denver, the derailment occurring about 11:05 p. m. Engineer Frank Hockenberger was instantly killed, and Fireman C. Krebbs was so badly injured that he died in about four hours. Express Messenger Thos. Woodruff was badly bruised and was sent to a hospital in Colorado Springs, from which place, I understand, he has since been discharged; no other members of the train crew or any passengers suffered injuries of consequence.

Train No. 15 is a consolidated local train operating between Denver and Grand Junction and between Denver and Alamosa, and makes connections at Alamosa and Salida with the narrow-gauge lines of the Rio Grande system for all points in southern and western Colorado.

This train, on the date in question, consisted of engine 1002, and the following equipment in the order named:

Mail	621
Baggage	681
Baggage	683
Coach	879
Coach	876
Pullman	Shurtleff
Pullman	Woodford
Pullman	Grampian
Pullman	Stalactite
Coach	872

And was in charge of the following crew:

Conductor ..... David A. Muse
Head Brakeman and Porter ..... H. R. Butler
Flagman ..... M. A. Johnson
Engineer ..... Frank Hockenberger
Fireman ..... C. Krebbs

The railroad officials notified the Commission of the wreck about 10:30 a. m. the following day and Inspector C. W. Fairchild was immediately dispatched to the scene of the wreck, arriving there about 4:45 p. m. After making an examination of the track and equipment, he returned to Denver that night and made the following preliminary report to the Commission:

"February 24, 1915.

"To The Public Utilities Commission of the State of Colorado, Capitol Building, Denver, Colorado.

Gentlemen:

In accordance with instructions from the Commission, I left Denver yesterday at 12:05 p. m. on the Denver & Rio Grande Railroad and proceeded to Fountain, where passenger train No. 15 of the Denver & Rio Grande Railroad Company had been wrecked the night of the 22nd.

I arrived at the scene of the accident about 4:45 p. m. and found in charge of the work of clearing the wreck Superintendent W. E. Miller of the First Division of the Denver & Rio Grande, and General Roadmaster C. W. Whitfield. Train No. 15 consisted of engine No. 1002 and ten cars, one steel mail car, two wooden baggage and express cars, three coaches, and four sleepers, and at the time of my arrival all but one coach and three baggage and mail cars had been removed. The four remaining cars were standing upright, but part of the trucks had been stripped from them. The engine was found lying on the right side, approximately 350 feet from the point at which it left the rails. Engineer Frank Hockenberger was instantly killed, and Fireman C. Krebbs was fatally injured, dying about four hours after the train was wrecked. A turnout had been built around the wreck and the first train passed over it about the time I arrived.

I walked over the track from Fountain to the wreck, two and one-quarter miles, and found the roadbed and track in fairly good condition, except between Mile Posts 90 and 91, at which point the wreck occurred. About a half mile of this track was in what I consider exceedingly bad condition, and I feel that the entire matter should be

gone into thoroughly by the Commission. I would therefore suggest that one or more of the Commissioners proceed to Fountain and carefully look over the ground in the vicinity of the wreck in person."

In company with C. W. Fairchild, Inspector for this Commission, and P. Groom and R. S. Gardner, Inspectors for the Interstate Commerce Commission, I attended the coroner's inquest at Colorado Springs, held on February 24, 1915, for the purpose of ascertaining the cause of this wreck. Nothing of any importance was brought out at this hearing, and only the most formal facts were established. The jury was not given an opportunity to inspect the track or equipment and consequently failed to establish the cause of this wreck.

On February 25, in company with the same gentlemen, I made a careful examination of the track from a point one-half mile north of the point of accident, to a point one-half mile south of the point of accident. An examination was also made of the equipment which had not been removed, and of the locomotive after it had been brought to the Burnham shops.

We also attended the investigation held by the railroad officials in Superintendent Miller's office at Pueblo on March 1.

From the testimony taken at the coroner's inquest and at the investigation held in Superintendent Miller's office, it appears that this train left Denver on time, and left Colorado Springs at 10:38 p. m., being 5 minutes late out of that station. The train was due at Fountain, a station 13 miles south of Colorado Springs, at 10:59 p. m. and passed that point at 11:01 p. m. being, therefore, 2 minutes late at that station, or practically on time. The testimony of all witnesses indicates that the train was running about 45 miles per hour when the derailment occurred, which is slightly in excess of the regular running time between Fountain and Buttes, the first station south of the point of derailment. The derailment, therefore, occurred about 11:04 p. m.

The engine left the rails 1,287 feet south of Mile Post 90 and ran 350 feet before coming to rest; the engine turned over on the right side, resting on and being at right angle with the track, front of engine pointing to the east. The mail car, both baggage cars and two coaches left the rails, all remaining upright. The front truck of the forward sleeper also left the rails; the front end of the mail car was resting on the top of the engine with the rear end swung out about 25 feet west of the roadbed. The front baggage car came to rest between the mail car and roadbed with the front end resting against the front end of the mail car. The other derailed cars came to rest directly behind the front baggage car.

The track, roadbed and ties were badly torn up. Almost all of the ties had been collected and burned before I made an

inspection, notwithstanding, as I have been informed, the Interstate Commerce Inspectors made a request that the ties be not destroyed until they could secure a photograph of them.

The track is tangent between Mile Posts 89 and 93, and at the point of derailment is ballasted with smelter slag to a depth of from 12 to 15 inches. The rails are 85 lb. steel and were laid in 1912; the grade at this particular point is about ½ of 1%, descending from north to south. The ties used are principally pine with a few red spruce, and are laid 20 to each rail length. These are single spiked, and no tie plates are used.

In taking measurements of the gauge of the track we commenced at a point 500 feet north of the point of derailment and took measurements for 500 feet north of that point. It developed that on this 500 feet of track the gauge varied in different places from standard 4 ft. 8½ in., to 4 ft. 9¾ in., this same condition existed on the first 500 feet north of point of derailment and for quite a distance south of the point of accident, but an inspection disclosed the fact that this particular part of the track had been recently re-aligned and spikes driven tight. The testimony discloses the fact that this work was done subsequent to the accident.

Inspection also disclosed the fact that from Mile Post 90 to point of derailment, a distance of 1,287 feet, 17 spikes were so loose that they could readily be pulled with the fingers, and 50 spikes were missing entirely; of this number 21 were loose or missing at rail joints; 455 spikes were found to be loose enough to be moved with the fingers; 126 rotten ties were also discovered in this distance, 8 of which were under the first rail just preceding the point of derailment, and 40 were found under the first 8 rail lengths north of point of derailment.

An inspection of the track south of the point where the engine came to rest disclosed a similar condition; from this point to the whistling post, which is approximately 200 yards north of Mile Post 91, 115 rotten ties were found, and from the place where the engine came to rest, to Mile Post 91, a distance of 3,643 feet, 121 loose spikes were found and 82 missing; 111 of these were either loose or missing at joints; also 1 outside angle bar was cracked.

The locomotive and cars were also inspected, but no defects could be discovered which could have caused the derailment. The points of the counter balances on the right side of the locomotive were badly battered and the journal box of the right rear pony truck was broken. These, however, were effects of and not the cause of derailment.

The foreman of the section, which includes that part of the track where the accident occurred, testified that his section was 8 miles long, and that at the present time the only man he has

employed is a track walker. A detailed statement of the number of men employed on the section since March, 1914, is as follows:

March, 1914, average	10	men
April, 1914, average	5½	men
May, 1914, average	4¾	men
June, 1914, average	5	men
July, 1914, average	5½	men
August, 1914, average	3½	men
September, 1914, average	3½	men
October, 1914, average	3	men
November, 1914, average	2	men
December, 1914, average	2	men
January, 1915, average	2	men
February, 1915, average	1	man

He also testified that from 60% to 75% of new ties were laid on his section in 1912. This may be true, so far as the whole section is concerned, but after careful inspection I am firmly of the opinion that it is not the case in regard to that part of his section between Mile Posts 90 and 91. While a majority of the ties are serviceable, I found very few first-class ties on this mile of track and many which should be immediately removed; most of them show considerable wear. The condition of this mile of track plainly shows general lack of attention. I found many spikes which had worked partially out of the ties, and many others which were too far from the rails to be of any material benefit. It is obvious that one man cannot keep 8 miles of track in proper condition.

I attach herewith certain photographs which I desire to have considered as a part of this report.

Exhibits Nos. 1 to 12 inclusive are general views of the wreck, which were taken from different angles and positions.

Exhibit No. 13 shows the turnout built around the wreck, "looking south."

Exhibit No. 14 shows two ties under rail joint which appeared to be in good condition; when struck with a pick, however, it developed that they were entirely rotten. This picture was taken a few rail lengths north of point of derailment.

Exhibit No. 15 shows a spike ¾ out of the tie at rail joint; many other joints were found to be in the same condition.

Exhibit No. 16 shows the method used in some instances of keeping spikes in place.

Exhibit No. 17 is a general view of track looking north from point of derailment.

Exhibit No. 18 shows ties taken from place of accident, showing rail wear and distance spikes were bent back from rail seat.

Exhibit No. 19 shows ties taken from point of accident and shows distance spikes were bent away from rail seat.

Exhibit No. 20 shows view of track looking north from point of derailment, showing low joints on right-hand rail.

Exhibit No. 21 shows specimen of spikes pulled from track with the fingers; all of these spikes were in place and presumably of some service.

I also attach herewith a copy of the transcript of testimony taken at the coroner's inquest held at Colorado Springs on February 24, and a copy of the transcript of testimony taken at the investigation held by the railroad officials at Pueblo on March 1. A perusal of both records develops the fact that there is nothing in either which is of any benefit whatever in ascertaining the cause of this wreck.

The only comment which I care to make in reference to either is a statement by Superintendent Miller appearing on the last page of the transcript of the Pueblo hearing. This statement was evidently made for the purpose of explaining why the track was out of gauge for a considerable distance both north and south of the wreck. While it is true that Mr. Miller endeavored to show that this derailment would throw the rails out of alignment for a long distance in both directions, it is equally true that practically everyone present disagreed with him as to the distance this result would obtain, especially to the rear of the derailment, and for the further reason that an inspection developed the fact that practically all of the rail spread discovered appeared to be old and not new.

CONCLUSION.

In accidents of this nature it is not always possible to absolutely ascertain the exact and direct cause; it is, however, generally speaking, possible to ascertain some of the contributory causes; in the present case a careful survey of the engine and equipment does not disclose any defect which would have caused this derailment, neither does the speed of the train appear to have been excessive. The rails were 85 lb. steel and appeared to be in first-class condition; also the roadbed; however, I found an entirely different condition in respect to the ties and rail fastenings on the piece of track between Miles Posts 90 and 91. In my judgment, the percentage of wornout and rotten ties was too great for safety; also there were too many loose and missing spikes; in fact, most of this mile of track had the appearance of having

been generally neglected. From the investigation and inspection made I am of the opinion, and so find, that this derailment was caused by spreading rails, occasioned by poor ties and inadequate spiking. The engine which was pulling the train in question is one of the largest in use on the Rio Grande System, weighing 261,000 lbs., without the tank, and it is apparent to me that when this engine passed over that portion of the track just preceding the point of derailment, where the irregular gauge of the track was encountered, it caused considerable lateral motion, with a consequent additional strain on the rails and fastenings which, under the existing conditions, were not adequate, and resulted in the rail turning under the locomotive with disastrous results.

I have passed over this track twice since this wreck occurred and observed that the railroad company was at work renewing the defective ties on this mile of track. I therefore do not anticipate any further trouble of a like nature in this vicinity.

Respectfully submitted,

S. S. KENDALL,
Chairman.

REPORT OF COMMISSIONER M. H. AYLESWORTH TO THE COMMISSION ON COLLISION OF LIGHT LOCOMOTIVE 1140 WITH TRAIN NO. 20 ON THE DENVER & RIO GRANDE RAILROAD, SEPTEMBER 8, 1915.

On September 8, 1915, at 8:00 o'clock a. m., at a point near M. P. 285, on the Denver & Rio Grande Railroad, within the State of Colorado, light locomotive 1140, west-bound, in charge of Engineer W. M. King and Fireman Elmer John, collided with east-bound passenger train No. 20, locomotives Nos. 1063 and 732, Engineers C. Rush and J. Downing, and ten cars, in charge of Conductor E. A. Evans. Fireman John suffered injuries which caused his death, and Engineer King sustained minor cuts and bruises which confined him in the hospital for a period of one week. Forty passengers were slightly injured. Locomotives 1140 and 1063 were derailed and damaged to a considerable extent. The rest of the equipment remained on the rails and was damaged but slightly. The track was torn up for a short distance and traffic delayed for about twelve hours.

An investigation to determine the cause of the accident was held at Salida on September 15, and ten witnesses were examined. Commissioner M. H. Aylesworth and Inspector C. W. Fairchild, of the Public Utilities Commission of the State of Colorado, attended the investigation and took part therein.

The division on which this accident occurred is single-track, trains being operated on train orders and time card rights.

The undisputed evidence is to the effect that light locomotives 1140, 1062, and 1064, west-bound, were, under orders, running extra from Tennessee Pass to Minturn. Locomotives 1062 and 1064 took the siding at Mitchell to allow passenger train No. 20, running on time, to pass. Engineer King, on locomotive 1140, proceeding in advance of locomotives 1062 and 1064, testified that he entirely overlooked passenger train No. 20, meeting it about a mile west of Mitchell, with the results above noted. Locomotive 1140 was running between fifteen and eighteen miles per hour, and passenger train No. 20 about fourteen miles per hour.

Engineer King testified that his fireman, Elmer John, failed to call his attention to the oversight, so it must be presumed that John overlooked the fact that locomotive 1140 should have

taken the siding at Mitchell to allow passenger train No. 20 to pass. This testimony was uncontradicted, although witnesses were thoroughly examined by representatives of the Public Utilities Commission.

No employee involved in this collision was on duty contrary to the hours of service law, and Engineer King had been in the service of the Denver & Rio Grande Railroad for a period of about seventeen years; Fireman John having been in the service of the Railroad Company for a period of about nine years.

The witnesses were carefully examined as to what precautions might be taken to prevent future accidents of this nature. No practicable or feasible recommendations were made. It was shown by the testimony that the motive power, rolling stock and track were in good condition, and that the train orders were correctly transmitted and handled. The uncontradicted evidence showed a failure of memory on the part of Engineer King, and possibly of his fireman. It does not appear that any remedy could be offered in cases of this kind under the ordinary telegraph system of dispatching trains as is used at the present time on the Denver & Rio Grande Railroad.

Engineer King, in assuming responsibility for the collision, testified that he considered his fireman equally responsible with him, and this statement brought out a thorough and somewhat heated discussion between the railroad officials, engineers and firemen present as to whether this statement was justified. The officials of the Denver & Rio Grande Railroad consider the fireman equally responsible with the engineer for the safe operation of a train; it was maintained by the firemen that no rule of the Company's Book of Rules could be interpreted to mean that this responsibility should be shared equally. There are two rules in the Book of Rules of the Railroad Company, set forth as Paragraphs 210 and 337, which seem to bear on this subject. The following is contained in Paragraph 210:

> "Engineers must show their train orders to their firemen and head brakemen, and conductors to their rear brakemen or flagmen, who are required to read and understand them. Passenger conductors will show all train orders to head brakemen and train porters. Brakemen, firemen, flagmen and train porters will call the attention of conductors and engineers should orders be disregarded."

while the following appears in Paragraph 337:

> "They (firemen) must familiarize themselves with all rules for engineers, and note how they are carried out, and must observe rules for other employees insofar as they relate in any way to the proper performance of their duties."

An inspection of the examination given by the Railroad Company to engineers and firemen demonstrates that the Railroad Company does not require its firemen to pass an examination on train orders or time card, although, according to Paragraph 210 in the Book of Rules, the firemen are required to "read" and "understand" the orders. It would not seem reasonable to expect firemen to clearly understand train orders of all descriptions if they are not compelled to stand an examination on this subject. The same reasoning applies as to time cards. If engineers and firemen are to be held equally responsible for accidents and collisions resulting from lapse of memory, misunderstanding, or neglect or failure to observe and understand train orders and the time card, it would appear to be only reasonable and fair that the firemen should pass a similar examination to that given the engineers as to the understanding of train orders and knowledge of the time card.

The officials of the Denver & Rio Grande Railroad have discharged Engineer W. M. King from the service.

M. H. AYLESWORTH,
Commissioner.

The above report is hereby adopted, and made the report of the Public Utilities Commission of the State of Colorado, this 30th day of September, 1915.

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

REPORT OF THE COMMISSION IN RE DERAILMENT OF DENVER & RIO GRANDE TRAIN NO. 4 AT 4:40 A. M. ON NOVEMBER 13, 1915.

On November 13, at 4:40 A. M., Denver & Rio Grande train No. 4 was derailed and wrecked at a point 2,607 feet east of Mile Post 224, being approximately seven miles west of Salida, in what is known as Brown's Canon. Six of the ten cars in the train were derailed, some of them sliding down the steep embankment to the south of the track and resting on their tops, being turned completely over. Thirteen (13) passengers and six (6) employees suffered minor injuries. They were taken to Salida, where their injuries were dressed, and all of them proceeded on their journey the same morning of the accident. The train consisted of engine 736, one combination mail and baggage car, one express car, two coaches, three tourists, one diner, and two standard sleepers, all equipment being of steel construction.

The train was running about fifteen minutes late and the accident took place on a four degree curve with one per cent descending grade. There is a short tangent immediately above the place of accident. The train was running about thirty (30) miles per hour.

A careful inspection was made of the track where the derailment occurred and it was found to be in excellent condition. The rail at this particular point is of 85 pound steel; sixty-five (65) per cent of the ties being oak and tie plates are in use on this and other curves in the vicinity. The accident caused the track to be torn up for about two rail lengths. The track is considered perfectly safe for the speed at which this train was traveling at the time it was wrecked.

The engine, baggage, express cars and one coach remained on the track; one coach and two tourist cars were derailed and turned over on their sides, and one tourist, dining car, and one standard sleeper were derailed and turned entirely over, resting on their tops. One standard sleeper remained on the track.

The accident was caused by a broken rail. This rail was found to be thirty (30) feet in length, of 85 pound steel, and was the south rail of the track. It was rolled by the Colorado Fuel & Iron Company in December, 1902, and was marked "Section 850;" it was placed in service in December, 1902, and has, there

fore, been in service since that date. The break was caused by a longitudinal seam through the center of the ball of the rail and must have extended for at least two feet, and possibly a greater distance. It was entirely invisible from the outside surface of the rail. The rail where broken showed a splinter about twelve inches in length where one side of the rail had given way. It is probable that the frost conditions the night of the accident had much to do with the break and that the strain of the passing train snapped one side of the rail near the point where the flaw came close to the surface.

In the opinion of the Commission the accident was due solely to this defective rail. The railroad company cannot be charged with the least responsibility in connection with it, as the flaw in the rail could not have been discovered even by the closest inspection.

The fact that no serious injuries resulted to any of the passengers, or crew, is occasioned from the fact that all of the equipment used in this train was of steel construction.

The management of the Denver & Rio Grande Railroad Company is in no way responsible for this wreck, and is entitled to much credit for the promptness with which the wreck was cleared and the track put into commission. In less than three hours from the time the wrecker arrived on the scene the wreckage had been removed, and the track repaired and in use.

The Public Utilities Commission of the State of Colorado:

(SEAL)

S. S. KENDALL,
GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 18th day of November, 1915.

REPORT OF THE COMMISSION IN RE COLLISION OF TWO FREIGHT TRAINS ON THE DENVER & RIO GRANDE RAILROAD AT LARKSPUR, AT 11:24 A. M., NOVEMBER 13, 1915.

On November 13, at 11:24 A. M., at Larkspur, train extra 1152 east of the Denver & Rio Grande Railroad collided with the rear end of train No. 86, resulting in the deaths of Conductor J. Harsch of train 86, and W. C. Duncan, a passenger riding in the caboose of the same train.

Train 86 was being hauled by engine 1185 and was in charge of Engineer Jackson, Fireman Meade, Conductor J. Harsch and Brakemen Dunbar and Lydon. Engine 1152 of the extra train, which was made up of 22 cars, was in charge of Engineer Edward Harrison, Fireman H. R. Heald, Conductor C. F. Greer, and Brakemen C. H. Cole and Harry Hart.

It appears, on investigation, that train 86 had orders to take the Larkspur siding to let passenger train No. 5 by, and also orders to permit extra 1152 to pass. The Larkspur passing track has a capacity of 44 cars. Train 86 was made up of 52 cars. It was therefore necessary when this train took the passing track to lap the main line about 10 cars. The head brakeman of this train proceeded up the main line to flag No. 5. Brakeman Lydon went to the rear of the train to protect it from that direction. Extra 1152 had orders to take the siding at Glade, just north of Larkspur, to permit passenger train No. 5 to pass, but the conductor, finding that he could not make that siding in the time required, decided to take the passing track at Larkspur. He had no orders on train No. 86 and knew nothing about that train. As extra 1152 approached Larkspur, and when about 9 car lengths from the rear end of train 86, Engineer Harrison first saw Brakeman Lydon flagging. Although the speed of his train at that time was only about 8 or 10 miles per hour, he was not able to stop in time and collided with the caboose of train No. 86 and damaged it to a considerable extent, with the fatalities noted above.

The Denver & Rio Grande Railroad Company operates its trains under standard rules, and it appears that these rules in reference to flagging were violated, as the rear brakeman of train No. 86 only went back three car lengths from the caboose to protect that end of the train.

The accident took place on rather a sharp curve and it was impossible for Engineer Harrison to have seen train No. 86 sooner than he did. Conductor Harsch is equally responsible for this accident, as it was his duty to see that his rear brakeman was back far enough to properly protect his train. The responsibility for this accident rests entirely with these two men. First, with Brakeman Lydon for failing to flag at a safe distance from his train, and second, with Conductor Harsch for his failure to see that the brakeman adhered to the rules of the company.

The Public Utilities Commission of the State of Colorado:

S. S. KENDALL,
(SEAL) GEO. T. BRADLEY,
M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado, this 18th day of November, 1915.

SECTION 4.

THE PUBLIC UTILITIES ACT REVISED TO JANUARY 1, 1916, WITH INDEX.

CHAPTER 127.

AN ACT

CONCERNING PUBLIC UTILITIES, CREATING A PUBLIC UTILITIES COMMISSION, PRESCRIBING ITS POWERS AND DUTIES AND REPEALING CERTAIN ACTS AND PARTS OF ACTS IN CONFLICT THEREWITH.

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

Section 1. This act shall be known as the "Public Utilities Act" and shall apply to the public utilities and public services herein described and to the commission herein referred to.

(b) Any person, firm, association of persons or corporation, now or hereafter engaged in transporting passengers, freight or express for hire in this state in any automobile or other vehicle whatever, and operating for the purpose of affording a means of transportation similar to that afforded by railroads or street railways, and in competition therewith by indiscriminately accepting, discharging and laying down either passengers, freight or express, between fixed points or over established routes is hereby declared to be affected with a public interest, and to be a public utility, and subject to the laws of this state now in force and effect or that may hereafter be enacted pertaining to public utilities.

Section 2. (a) The term "commission," when used in this act, means The Public Utilities Commission of the State of Colorado.

(b) The term "commissioner," when used in this act, means one of the members of the commission.

(c) The term "corporation," when used in this act, includes a corporation, a company, an association, and a joint-stock association.

(d) The term "person," when used in this act, includes an individual, a firm, and a co-partnership.

(e) The term "Common carrier," when used in this act, includes every railroad corporation; street railroad corporation; express corporation, dispatch, sleeping car, dining car, drawing room car, freight, freight-line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading; and every other corporation or person affording a means of transportation, by automobile or other vehicle whatever, similar to that ordinarily afforded by

railroads or street railways, and in competition therewith, by indiscriminately accepting, discharging and laying down either passengers, freight or express between fixed points or over established routes; and every other car corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, operating for compensation within this State.

Section 3. The term "public utility," when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, person or municipality operating for the purpose of supplying the public for domestic, mechanical or public uses, and every corporation, or person now or hereafter declared by law to be affected with a public interest, and each thereof, is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act; Provided, that nothing in this act shall be construed to apply to irrigation systems, the chief or principal business of which is to supply water for the purpose of irrigation.

Section 4. A Public Utilities Commission is hereby created which shall be known as The Public Utilities Commission of the State of Colorado, and which shall consist of three members who shall be appointed by the Governor, except as in this section otherwise provided. Aaron P. Anderson is hereby designated and named as one commissioner, and shall hold his office until the second Tuesday in January, 1915; Sheridan S. Kendall is hereby designated and named as one commissioner and shall hold his office until the second Tuesday in January, 1917; and immediately upon the taking effect of this act the Governor shall appoint a commissioner who shall hold his office until the second Tuesday in January, 1919. The term of office for each commissioner thereafter to be so appointed by the Governor, by and with the consent of the Senate, shall be for the term of six years from and after the expiration of the several terms as herein fixed. No two members of The Public Utilities Commission shall at any time be residents of the same Judicial District, and any appointment to fill a vacancy shall be for the unexpired term. The Governor shall designate one member of the Commission as Chairman of the Commission.

The Commissioners herein named shall receive as compensation for their services the sum of Three Thousand Dollars each per annum for the remainder of the respective terms for which they were elected as Railroad Commissioners. All Commissioners appointed after the passage of this Act shall receive as compensation the sum of Four Thousand Dollars each per annum.

The Commissioners shall devote their entire time to the duties of their office, to the exclusion of any other employment.

Section 5. Each commissioner and each person appointed to a civil executive office by the commission shall, before entering upon the duties of his office, take the constitutional oath of office. Each commissioner shall be a qualified elector of this State, and no person in the employ of or holding any official relation to any corporation or person, which said corporation or person is subject in whole or in part to regulation by the commission, and no person owning stocks or bonds of any such corporation or who is in any manner pecuniarily interested therein shall be appointed to or hold the office of commissioner or be appointed or employed by the commission; provided, that if any such person shall become the owner of such stocks or bonds or become pecuniarily interested in such corporation otherwise than voluntarily, he shall within six months divest himself of such ownership or interest; failing to do so, his office or employment shall become vacant.

Section 6. The commission shall appoint a secretary, whose salary shall be at the rate of twenty-five hundred dollars per annum and who shall hold office during its pleasure. It shall be the duty of the secretary to keep a full and true record of all proceedings of the commission, to issue all necessary process, writs, warrants and notices and to perform such other duties as the commission may prescribe, and who shall have all the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in any county or city and county, of this State.

Section 7. The commission shall have power, with the approval of the Governor, to employ during its pleasure such experts, engineers, statisticians, accountants, inspectors, clerks and employees as it may deem necessary to carry out the provisions of this act or to perform the duties and exercise the powers conferred by law upon the commission. The commission shall have power with the approval of the Governor to appoint an attorney at law of this state who shall hold office during the pleasure of the commission and who shall exercise the powers and duties conferred upon him by this act and by the commission. The commissioners, secretary, clerks, inspectors, accountants, attorneys, and all other employees, except experts temporarily in the employ of the commission, shall have been for four years prior to such appointment or employment, *bona fide* residents of the State of Colorado, and each and all of these, except only the attorneys and experts shall, while in the employ of the commission, devote their entire time to the service of the Commission, to the exclusion of any other employment.

Section 8. (a) The office of the commission shall be in the city and county of Denver. The office shall be open every day, legal holidays and Sundays excepted. The commission shall hold its sessions at least once each calendar month in said city and

county of Denver, and may also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties. It shall be the duty of the Board of Capitol Managers, or its successors in authority, to provide suitable quarters for the commission and its officers at the Capitol Building.

(b) The commission shall have a seal, bearing the following inscription: "The Public Utilities Commission of the State of Colorado." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of said seal.

(c) The commission is authorized to procure all necessary books, maps, charts, stationery, instruments, office furniture, apparatus and appliances, and incur such other expenses as may be actual and necessary, and the same shall be paid for in the same manner as other expenses authorized by this act.

Section 9. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every finding, order or decision made by a commissioner so designated, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the commission shall be and be deemed to be the finding, order or decision of the commission.

Section 10. (a) All officers, attorney, experts, engineers, statisticians, accountants, inspectors, clerks and employees of the commission shall receive such compensation as may be fixed by law or by the commission. The commissioners, attorney, secretary and rate expert shall be civil executive officers and their salaries as fixed by law or the commission shall be paid in the same manner as are the salaries of other state officers. The salary or compensation of every other person holding employment under the commission shall be paid monthly from the funds appropriated for the use of the commission, after being approved by the commission, upon claims therefor to be audited by the state auditing board.

(b) All expenses incurred by the commission pursuant to the provisions of this act, including the actual and necessary traveling expenses and other expenses and disbursements of the commissioners, their officers and employees, incurred while on business of the commission, shall be paid from the funds appropriated for the use of the commission, upon claims therefor to be audited by the state auditing board.

Section 11. The commissioners and the officers and employees of the commission, shall, when in the performance of their official duties, have the right to pass, free of charge, on all railroads, cars

and other vehicles of every common carrier subject in whole or in part to control or regulation by the commission, between points within this State, and such person shall not be denied the right to travel upon any railroad, car, or other vehicle of such common carrier, whether such railroad, car, or other vehicle be used for the transportation of passengers or freight, and regardless of its class.

Section 12. The commission shall make and submit to the Governor on or before the first day of December of each year subsequent to the year nineteen hundred and twelve, a report containing a full and complete account of its transactions and proceedings for the preceding fiscal year, together with such other facts, suggestions, and recommendations, as it may deem of value to the people of the State.

Section 13. (a) All charges made, demanded or received by any public utility, or by any two or more public utilities, for any rate, fare, product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such rate, fare, product or commodity or service is hereby prohibited and declared unlawful.

(b) Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall in all respects be adequate, efficient, just and reasonable.

Section 14. The power and authority is hereby vested in The Public Utilities Commission of the State of Colorado, and it is hereby made its duty to adopt all necessary rates, charges, and regulations to govern and regulate all rates, charges and tariffs of every public utility of this State as herein defined, the power to correct abuses, and prevent unjust discriminations and extortions in the rates, charges and tariffs of such public utilities of this State and to generally supervise and regulate every public utility in this State and to do all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of such power, and to enforce the same by the penalties provided in this act, through proper courts having jurisdiction.

Section 15. Under such rules and regulations as the commission may prescribe, every public utility shall file with the commission within such time and in such form as the commission may designate, and shall print and keep open to public inspection schedules showing all rates, tolls, rentals, charges and classifications collected or enforced, or to be collected and enforced, together with all rules, regulations, contracts, privileges and facilities which in any manner affect or relate to rates, tolls, rentals, classifications, or service. The rates, tolls, rentals and

charges shown on such schedules when filed by a public utility as to which the commission acquires the power by this act to fix any rates, tolls, rentals, or charges, shall not within any portion of the territory as to which the commission acquires as to such public utility such power, exceed the rates, tolls, rentals or charges in effect on the tenth day of October, nineteen hundred and twelve; the rates, tolls, rentals and charges shown on such schedules, when filed by any public utility as to any territory as to which the commission does not by this act acquire as to such public utility such power, shall not exceed the rates, tolls, rentals and charges in effect at the time the commission acquires as to such territory and as to such public utility the power to fix rates, tolls, rentals or charges. Nothing in this section contained shall prevent the commission from approving or fixing rates, tolls, rentals or charges, from time to time, in excess of or less than those shown by said schedules.

Section 16. Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, except after thirty days' notice to the commission and the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge or classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission immediately preceding or following the item.

Section 17. (a) No public utility subject to the provisions of this act shall, directly or indirectly, issue, give or tender any free service, ticket, frank, free pass, or other gratuity, or free or reduced-rate transportation for passengers between points within this State, except to the members of the commission and their agents and employees while in the discharge of their public duties, and except to its employees and their families, its officers, agents, surgeons, physicians, and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosyn-

ary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of live stock, poultry, fish and spawn (to be used by the State for the purpose of stocking public streams), milk and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to railway mail service employees, postoffice inspectors, customs inspectors, and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons; Provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents and employees of common carriers and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and provided further, that this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents and employees of telegraph and telephone companies and their families and the officers, agents, employees and their families of other common carriers subject to the provisions of this act; provided further, that the term "employees" as used in this paragraph, shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier, and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families," as used in this paragraph, shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died while in the service of any such common carrier. Provided, the granting or issuing of any free service, ticket, frank, free pass, or other gratuity, or free or reduced-rate transportation shall be subject to such reasonable restrictions as the commission may impose. Any common carrier violating this provision shall be liable to the penalty hereinafter prescribed for a violation of this act, and any person, other than the persons excepted in this provision, who uses any such free ticket, free pass or free transportation shall be subject to a like penalty.

(b) Nothing in this act contained shall be construed to prohibit the issue by express corporations of free or reduced-rate

transportation for express matter to their officers and employees, or the interchange of free or reduced-rate transportation for express matter between common carriers, their officers and employees; provided, that such express matter be for the personal use of the person to or for whom such free or reduced-rate transportation is granted; nor to prohibit the issue of franks by telegraph or telephone corporations to their officers and employees; nor to prevent a common carrier from transporting, storing or handling, free or at reduced rates, the household goods and personal effects of its employees, of persons entering or leaving its service, and of persons killed or dying while in its service.

(c) Except as in this section otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals, and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility.

Section 18. No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any respect, either between localities or as between any class of service. The commission shall have the power to determine any question of fact arising under this section. Nothing in this act shall be taken to prohibit a corporation or person engaged in the production, generation, transmission, or furnishing of heat, light, water, or power, telegraph or telephone service, from establishing a graduated scale of charges; provided, that a schedule showing such scale of charges shall first be filed with the commission and such schedule and each rate set out therein approved by it. Nothing in this act shall be taken to prohibit any such corporation or person from entering into an arrangement for a fixed period for the automatic adjustment of charges for heat, light, water, or power, telegraph or telephone service, in relation to the dividends to be paid to stockholders of such corporation or the profits to be realized by such person; provided, that a schedule showing the scale of charges under such arrangement shall first have been

filed with the commission and such schedule and each rate therein approved by it. Nothing in this section shall prevent the commission from revoking its approval at any time and fixing other rates and charges for the product or commodity or service, as authorized by this act.

Section 19. Every telephone corporation and telegraph corporation operating in this State shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph corporation with whose line a physical connection may have been made.

Section 20. No telephone or telegraph corporation subject to the provisions of this act shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within this State, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to the provisions of this act; but this shall not be construed as authorizing any such telephone or telegraph corporation to charge and receive as great a compensation for a shorter as for a longer distance. Upon application to the commission, a telephone or telegraph corporation or person operating such utility may, in special cases, after investigation, be authorized by the commission to charge less for a longer than a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telephone or telegraph corporation or person may be relieved from the operation and requirements of this section.

Section 21. No street or interurban railroad corporation shall charge, demand or collect or receive more than five cents for one continuous ride in the same general direction within the corporate limits of any city and county, city or town, except upon a showing before the commission that such greater charge is justified. Every street or interurban railroad corporation shall upon such terms as the commission shall find to be just and reasonable furnish to its passengers transfers entitling them to one continuous trip in the same general direction over and upon the portions of its lines within the same city and county, or city or town, not reached by the originating car.

Section 22. Every public utility shall furnish to the commission at such time and in such form as the commission may require a report in which the utility shall specifically answer all questions propounded by the commission upon or concerning which the commission may desire information. The commission shall have the authority to require any public utility to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special reports concerning any

matter about which the commission is authorized by this act or in any other act to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath.

Section 23. (a) Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, tolls, fares, rentals, charges or classifications, or any of them demanded, observed, charged or collected by any public utility for any service, or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices, or contracts, or any of them, affecting such rates, fares, tolls, rentals, charges, or classifications, or any of them, are unjust, unreasonable, discriminatory, or preferential, or in any wise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges, or classifications, are insufficient, the commission shall determine the just, reasonable or sufficient rates, fares, tolls, rentals, charges, rules, regulations, practices, or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

(b) The commission shall have the power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract, or practice, or any number thereof, or the entire schedule or schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, and practices, or any thereof, of any public utility, and to establish new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices, or schedule or schedules, in lieu thereof.

Section 24. Whenever the commission after a hearing had upon its own motion or upon complaint, shall find that the rules, regulations, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate, or sufficient rules, regulations, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced or employed and shall fix the same by its order, rule or regulation. The commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility, and upon proper tender of rates, such public utility shall furnish such commodity or render such service within the time and upon the conditions provided in such rules.

Section 25. Whenever the commission after a hearing upon its own motion or upon complaint, shall find the additions, extensions, repairs, or improvements to, or change in the existing

plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such additions, extensions, repairs, improvements, or changes be made, or such structure or structures be erected in the manner and within the time specified in such order. If the commission orders the erection of a new structure, the selection of the site for such structure shall be subject to the approval of the commission. If any additions, extensions, repairs, improvements, or changes, or any new structure or structures which the commission has ordered to be erected, require joint action of two or more public utilities, the commission shall notify the said public utilities that such additions, repairs, improvements, or changes or new structure or structures have been ordered and that the same shall be made at their joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, repairs, extensions, improvements, or changes or new structure or structures, which each shall bear. If at the expiration of such time such public utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs, improvements, or changes, or new structure or structures, the commission shall have authority, after further hearing, to make an order fixing the proportion of such expense to be borne by each public utility and the manner in which the same shall be paid or secured.

Section 26. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any railroad corporation or street railroad corporation, or person operating any such railroad or street railroad does not run a sufficient number of trains or cars, or does not possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger or freight transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop the same at proper places, or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the commission shall have the power to make an order directing any such railroad corporation or street railroad corporation to increase the number of its trains or of its cars or its motive power or to change the time of starting its train or car or to change the time schedule for the run of any train or car, or to change the stopping place or places thereof, or to make

any other change the commission may determine to be reasonably necessary to accommodate and transport traffic, passenger or freight, transported or offered for transportation.

Section 27. Whenever the commission, after a hearing had upon its own motion or upon complaint shall find that a physical connection can reasonably be made between the lines of two or more non-competitive telegraph or telephone corporations whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections for the transmission of messages or conversations, and the public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone corporations have failed to establish joint rates, tolls, or charges for service by or over their said lines, and that joint rates, tolls or charges ought to be established, the commission may by its order require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conversations between points in the same consolidated city and county, city or town, and that conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and in force in the future. If such telephone or telegraph corporations do not agree upon the division between them of the joint cost of such physical connection or connections or the division of the joint rates, tolls, or charges established by the commission over such through lines, the commission shall have authority, after further hearing, to establish such division by supplemental order.

Section 28. Whenever the commission after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that the public convenience and necessity require the use by one public utility of the conduits, subways, tracks, wires, poles, pipes or other equipment, or any part thereof, on, over, or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, wires, tracks, poles, pipes or other equipment, or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable, to the owner or other users of such conduits, subways, tracks, wires, poles, pipes, or other equipment, for such damage as may result therefrom to the property of such owners or other users thereof; provided, that power com-

panies shall not be permitted to use telegraph or telephone conduits or poles for transmission of electric current.

Section 29. The commission shall have power, after a hearing had upon its own motion or upon complaint, to make general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protecting devices at grade crossings or junctions and block or other systems of signaling, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand.

Section 30. (a) The commission shall have the power to provide the time within which express packages shall be received, gathered, transported and delivered at destination, and the limits within which express packages shall be gathered and distributed and telegraph messages delivered without extra charge.

(b) The commission shall have power, to provide by proper rules and regulations the time which consignors or persons ordering cars shall load the same, and the time within which consignees or persons to whom freight may be consigned shall unload and discharge the same and receive freight from the freight depots, and to enforce the penalties for any failure on the part of the consignors and consignees to conform to such rules as provided in this act.

Section 31. (a) The commission shall have power, after hearing had upon its own motion or upon complaint, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water public utilities; to ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished or rendered by any such public utility; to prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof; to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement and weighing; and to provide for the examination and testing of any and all appliances used for the measurement or weighing of any product, commodity or service of any such public utility.

(b) The commissioners and their officers and employees shall have power to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any of the other powers provided for in this act, and to set up and use on such premises any apparatus and appliances necessary therefor. The agents and employees of such public utility shall have the right to be present at the making of such examinations and tests.

(c) Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by the commission.

Section 32. The commission shall have power to ascertain the value of the property of every public utility in this State and the facts which in its judgment have or may have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new constructions, extensions and additions to the property of every public utility.

Section 33. The commission shall have power to establish a system of accounts to be kept by all public utilities, or to classify said public utilities and to establish a system of accounts for each class, and to prescribe the manner in which such accounts shall be kept.

It may also in its discretion prescribe the forms of accounts, records and memoranda to be kept by such public utilities, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out the provisions of this act. The system of accounts established by the commission and the forms of accounts, records and memoranda prescribed by it shall not be inconsistent in the case of corporations subject to the provisions of the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, with the systems and forms from time to time established for such corporations by the interstate commerce commission, but nothing herein contained shall affect the power of the commission to prescribe forms of accounts, records and memoranda covering information in addition to that required by the interstate commerce commission. The commission may,

after hearing had upon its own motion or upon complaint, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. Where the commission has prescribed the forms of accounts, records or memoranda to be kept by any public utility for any of its business, it shall thereafter be unlawful for such public utility to keep any accounts, records or memoranda for such business other than those so prescribed, or those prescribed by or under the authority of any other state or of the United States, excepting such accounts, records or memoranda as shall be explanatory of and supplemental to the accounts, records or memoranda prescribed by the commission.

Section 34. The commission shall have power, after hearing, to require any or all public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of accounts as the commission may prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the money so provided for out of the earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement, as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund.

Section 38. All hearings and investigations before the commission or any commissioner shall be governed by this act and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission nor any commissioner shall be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony before the commission or any commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission.

Section 39. The commission and each commissioner shall have power to issue writs of summons, subpoenas, warrants of attachment, warrants of commitment and all necessary process in proceedings for contempt, in the like manner and to the same extent as courts of record. The process issued by the commission, or any commissioner, shall extend to all parts of the State and may be served by any person authorized to serve process of courts of record, or by any person designated for that purpose by the commission or a commissioner. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed the fees now prescribed by law

for similar services, and such fees shall be paid in the same manner as provided herein for payment of the fees of witnesses.

Section 40. (a) The commission, and each commissioner, shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the State. Each witness who shall appear, by order of the commission or a commissioner, shall receive for his attendance the same fee and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness who has not been required to attend at the request of any party shall be subpoenaed by the commission, his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission, may at the time of service, demand the fees to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioner, as directed in the subpoena. All fees and mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. No witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation.

(b) The district court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held by the commission or any commissioner shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including waybills, books, accounts and documents, as required by any subpoenas issued by the commission or any commissioner. The commission or the commissioner before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the district court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend

and testify or produce or cause to be produced documentary evidence; provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained shall be construed as in any manner giving to any public utility immunity of any kind.

Section 41. (a) Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary under the official seal of the commission, to be true copies of the originals, shall be evidence in like manner as the originals.

(b) Every order, authorization or certificate issued or approved by the commission under any provision of sections 27 or 28 of this act shall be in writing and entered on the records of the commission. Any such order, authorization or certificate, or a copy thereof, or a copy of the record of any such order, authorization or certificate, certified by a commissioner or by the secretary under the official seal of the commission to be a true copy of the original order, authorization, certificate or entry, may be recorded in the office of the recorder of any county, or city and county, in which is located the principal place of business of any public utility affected thereby, or in which is situated any property of any such public utility, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the commission that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with like effect.

Section 42. The commission shall charge and collect the following fees: for copies of papers and records not required to be certified or otherwise authenticated by the commission, twelve and one-half cents for each folio; for certified copies of official documents and orders filed in its office, fifteen cents for each folio and one dollar for every certificate under seal affixed thereto; for certifying a copy of any report made by a public utility, two dollars; for each certified copy of the annual report of the commission, one dollar and fifty cents; for certified copies of evidence and proceedings before the commission, fifteen cents for each folio; for certificate authorizing an issue of bonds, notes or other evidences of indebtedness, one dollar for each thousand dollars of the face value of the authorized issue or fraction thereof up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and twenty-five cents for each one thousand dollars over ten million dollars, with a minimum fee in any case of fifty dollars; provided, that no fee shall be required when such issue is made for the purpose of guaranteeing, taking over, refunding, discharging or retiring any bond, note or other evidence of indebtedness up to the amount of the issue guaranteed, taken over, refunded,

discharged or retired. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each week, accompanied by a detailed statement thereof, into the treasury of the State to the credit of a fund to be known as "The Public Utility Commission Fund," which fund is hereby created and appropriated toward the payment of the salaries and expenses of the commission, as provided in Section 10 (a) and (b) of this act.

Section 43. The commission, each commissioner and each officer and person employed by the commission shall have the right, at any and all times, to inspect the accounts, books, papers and documents of any public utility, and the commission, each commissioner and any officer of the commission or any employee authorized to administer oaths shall have the power to examine under oath any officer, agent or employee of such public utility in relation to the business and affairs of said public utility; provided, that any person other than a commissioner or an officer of the commission demanding such inspection shall produce under the hand and seal of the commission his authority to make such inspection; and provided further, that a written record of the testimony or statement so given under oath shall be made and filed with the commission.

Section 44. The commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this State at such time and place as it may designate, of any books, accounts, papers or records kept by said public utility in any office or place without this State, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction.

Section 45. Complaint may be made by the commission of its own motion or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission; provided, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates, or charges of any gas, electrical, water, or telephone corporations, unless the same be signed by the mayor or the president or chair-

man of the board of trustees or a majority of the council, commission, or other legislative body of the county, city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers, of such gas, electrical, water or telephone service. All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or non-joinder of parties; and in any review by the courts of orders or decisions of the commission the same rule shall apply with regard to the joinder of causes and parties as herein provided. The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant. Upon the filing of a complaint the commission shall cause a copy thereof to be served upon the corporation or person complained of. Service in all hearings, investigations and proceedings pending before the commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure of this State, and may be made personally or by mailing in a sealed envelope, registered, with postage prepaid. The commission shall fix the time when and place where a hearing will be had upon the complaint and shall serve notice thereof, not less than ten days before the time set for such hearing, unless the commission shall find that public necessity requires that such a hearing be held at an earlier date.

Section 46. At the time fixed for any hearing before the commission or a commissioner, or at the time to which the same may have been continued, the complainant and the corporation or person complained of, and such corporations or persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. After the conclusion of the hearing, the commission shall make and file its order, containing its decision. A copy of such order, certified under the seal of the commission, shall be served upon the corporation or person complained of, or his or its attorney. Said order, except an order for the payment of money, shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission. If an order cannot in the judgment of the commission be complied with within twenty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission or any commissioner on any formal hearing had, and all

testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review an order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the commission on its own initiative and considered by it in rendering its order or decision, and the pleadings, record and proceedings in the case, shall constitute the record of the commission; provided, that on review of an order or decision of the commission, the petitioner and the commission may stipulate that a certain question or questions alone and a special portion only of the evidence shall be certified to the supreme court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review.

Section 47. Any public utility shall have a right to complain on any grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases, except that the complaint may be heard *ex parte* by the commission or may be served upon any parties designated by the commission.

Section 48. Whenever there shall be filed with the commission any schedule stating an individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, the commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative and without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utilities, but upon reasonable notice to enter upon a hearing concerning the propriety of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, and pending the hearing and the decision thereon, such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation shall not go into effect; provided, that the period of suspension of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation shall not extend beyond one hundred and twenty days beyond the time when such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation would otherwise go into effect unless the commission, in its discretion, extends the period of suspension for a further period not exceeding six months. On such hearing the commission shall establish the rates, fares, tolls, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find just and reasonable. All such rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations not so suspended shall, on the expiration of thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, go into effect and be the established and effective

rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules and regulations, subject to the power of the commission, after a hearing had on its own motion or upon complaint, as herein provided, to alter or modify the same.

Section 49. The commission may at any time upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original orders and decisions.

Section 50. In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive.

Section 51. After any order or decision has been made by the commission, any party to the action or proceeding or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in said action or proceeding and specified in the application for rehearing, and the commission may grant and hold such rehearing on said matters, if in its judgment sufficient reason therefor be made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless such corporation or person shall have made, before the effective date of said order or decision, application to the commission for a rehearing. Such application shall set forth specifically the ground or grounds on which the applicant considers said decision or order unlawful. No corporation or person shall in any court urge or rely on any ground not set forth in said application. Any application for a rehearing made ten days or more before the effective date of the order as to which a rehearing is sought, shall be either granted or denied before such effective date, or the order shall stand suspended until such application is granted or denied. Any application for a rehearing made within less than ten days of the effective date of the order as to which a rehearing is sought and not granted within twenty days may be taken by the party making the application to be denied, unless the effective date of the order is extended for the period of the pendency of the application. If any application for a rehearing be granted without a suspension of the order involved, the commission shall forthwith proceed to hear the matter with all dispatch and shall determine the same within twenty days after final submission, and if such determination is not made within said time it may be taken by any party to the rehearing that the order involved is affirmed. Any application for rehearing shall not excuse any corporation or person from complying with and obeying any order or decision, or any requirement of any order

of the commission theretofore made, or operate in any manner to stay or postpone the enforcement thereof except in such cases and upon such terms as the commission may by order direct. If after such rehearing a consideration of all the facts, including those arising since the making of the order or decision, the commission shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change, or modify the same. An order or decision made after such rehearing, abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision unless so ordered by the commission.

Section 52. Within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may apply to the supreme court of this State for a writ of review for the purpose of having the lawfulness of the original order or decision on rehearing inquired into and determined. Such writ shall be made returnable not later than thirty days after the date of issuance thereof and shall direct the commission to certify its record in the case to the court. On the return day, the cause shall be heard by the supreme court, unless for a good reason shown the same be continued. No new or additional evidence may be introduced in the supreme court, but the cause shall be heard on the record of the commission as certified by it. The review shall not extend further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the Constitution of the United States or of the State of Colorado, and whether the order of the commission is just and reasonable and whether its conclusions are in accordance with the evidence. The findings and conclusions of the commission on disputed questions of fact shall be final and shall not be subject to review. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon hearing, the supreme court shall enter judgment either affirming, setting aside or modifying the order or decision of the commission. The provisions of the Code of Civil Procedure of this State relating to writs of review shall so far as applicable and not in conflict with the provisions of this act, apply to proceedings had in the supreme court under the provisions of this section. No court of this State (except the supreme court to the extent herein specified) shall have jurisdiction to review, reverse, correct or annul any order or decision of the commission, or to suspend or delay the execution or operation thereof.

or to enjoin, restrain, or interfere with the commission in the performance of its official duties; provided that the writ of mandamus shall lie from the supreme court to the commission in all proper cases.

Section 53. (a) The pendency of a writ of review shall not of itself stay or suspend the operation of the order or decision of the commission, but during the pendency of such writ, the supreme court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order or decision.

(b) No order so staying or suspending an order or decision of the commission shall be made otherwise than upon three days' notice and after hearing, and if the order or decision of the commission is suspended, the order suspending the same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage.

(c) In case the order or decision of the commission is stayed or suspended, the order of the court shall not become effective, until a suspending bond shall first have been filed with, and approved by the commission (or approved on review by the supreme court), payable to the State of Colorado, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the commission, and of all moneys which any person or corporation may be compelled to pay pending the review proceedings, for transportation, transmission, products, commodity or service in excess of the charges fixed by the order or decision of the commission in case said order or decision is sustained. The supreme court, in case it stays or suspends the order or decision of the commission in any matter affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the public utility affected to pay into court from time to time, there to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the order or decision of the commission had not been stayed or suspended.

(d) In case the supreme court stays or suspends any order or decision lowering any rate, fare, toll, rental, charge or classification, the commission, upon the execution and approval of said suspending bond, shall forthwith require the public utility affected, under penalty of the immediate enforcement of the order or decision of the commission (pending review and notwithstanding the suspending order) keep such accounts, verified by oath, as may, in the judgment of the commission, suffice to

show the amounts being charged or received by such public utility, pending review, in excess of the charges allowed by the order or decision of the commission, together with the names and addresses of the corporations or persons to whom evercharges will be refundable in case the charges made by the public utility, pending review, be not sustained by the supreme court. The court may, from time to time, require said party petitioning for a review to give additional security on, or to increase the said suspending bond, whenever in the opinion of the court the same may be necessary to insure the prompt payment of said damages and said overcharges. Upon the final decision by the supreme court, all moneys which the public utility may have collected, pending the appeal, in excess of those authorized by such final decision, together with interest, in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by the commission. If any moneys shall not have been claimed by the corporations or persons entitled thereto within one year from the final decision of the supreme court, the commission shall cause notice to such corporations or persons to be given by publication once a week for two successive weeks in a newspaper of general circulation, printed and published in the city and county of Denver, and such other newspapers as may be designated by the commission, said notice to state the names of the corporations or persons entitled to such moneys and the amount due each corporation or person. All moneys not claimed within three months after publication of said notice shall be paid by the public utility, under the direction of the commission, into the state treasury for the benefit of the general fund.

Section 54. All actions and proceedings under this act, and all actions or proceedings to which the commission or the people of the State of Colorado may be parties, and in which any question arises under this act, or under or concerning any order or decision of the commission, shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the attorney of the commission in any action or proceeding in which he may be allowed to intervene.

Section 55. For the purpose of ascertaining the matters and things specified in section 32 of this act, concerning the value of the property of public utilities, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had, the commission shall give the public utility affected thereby

at least thirty days' written notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section and in section 47 of this act, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing. All public utilities affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The commission is empowered to resort to any other source of information available. The evidence introduced at such hearing shall be reduced to writing and certified under the seal of the commission. The commission shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the public utility affected. Such findings shall be subject to review by the supreme court of this State in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court, in which the commission, the state or any officer, department or institution thereof, or any county, city and county, municipality or other body politic and the public utility affected may be interested, whether arising under the provisions of this act, or otherwise, and such findings, when so introduced, shall be conclusive evidence of the facts therein stated as of the date therein stated under the conditions then existing and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may, from time to time, cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any public utility subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings; provided, that such finding made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings, except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation.

Section 56. (a) When complaint has been made to the commission concerning any rate, fare, toll, rental or charge for any product or commodity furnished or service performed by any public utility, and the commission has found, after investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection, provided no discrimination will result from such reparation.

(b) If the public utility does not comply with the order for the payment of reparation within the specified time in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of the commission. The remedy in this section provided shall be cumulative and in addition to any other remedy or remedies in this act provided in case of failure of a public utility to obey the order or decision of the commission.

Section 57. It is hereby made the duty of the commission to see that the provisions of the constitution and statutes of this State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the State therefor recovered and collected, and to this end it may sue in the name of the people of the State of Colorado. Upon the request of the commission, it shall be the duty of the attorney general or the district attorney of the proper county or city and county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute actions or proceedings for the enforcement of the provisions of the constitution and statutes of this State affecting public utilities and for the punishment of all violations thereof.

Section 58. (a) In case any public utility shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by the constitution, any law of this State or any order or decision of the commission, such public utility shall be liable to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the court shall find that the act or omission was willful, the court may in addition to the actual damages award damages for the sake of example and by way of punishment. An action to recover such loss, dam-

age or injury may be brought in any court of competent jurisdiction by any corporation or person.

(b) No recovery as in this section provided shall in any manner affect the recovery by the State of the penalties in this act provided or the exercise by the commission of its power to punish for contempt.

Section 59. (a) This act shall not have the effect to release or waive any right of action by the State, the commission, or any person or corporation for any right, penalty or forfeiture which may have arisen or accrued or may hereafter arise or accrue under any law of this State.

(b) All penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any criminal prosecution against any public utility, or any officer, director, agent or employee thereof, or any other corporation or person, or be a bar to the exercise by the commission of its power to punish for contempt.

Section 60. Whenever the commission shall be of the opinion that any public utility is failing or omitting to do anything required of it by law, or by any order, decision, rule, direction or requirement of the commission, or is doing anything or about to do anything, or permitting anything or about to permit anything to be done contrary to or in violation of law or of any order, decision, rule, direction or requirement of the commission, it shall direct the attorney of the commission to commence an action or proceeding in the district court in and for the county, or city and county, in which the cause or some part thereof arose, or in which the corporation or person complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides, in the name of the people of the State of Colorado, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney of the commission shall thereupon begin such action or proceeding by petition to such district court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public utility complained of must answer the petition, and in the meantime said public utility may be restrained. In case of default in answer, or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the

writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken to the supreme court from such final judgment in the same manner and with the same effect, subject to the provisions of this act, as appeals are taken from judgments of the district court in other actions for mandamus or injunction.

Section 61. (a) Any public utility which violates or fails to comply with any provision of the constitution of this state or of this act, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement or any part or provision thereof, of the commission, except an order for the payment of money, in a case in which a penalty has not hereinbefore been provided for such public utility, is subject to a penalty of not more than two thousand dollars for each and every offense.

(b) Every violation of the provisions of this act or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof, except an order for the payment of money, by any corporation or person, is a separate and distinct offense, and in case of a continuing violation, each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

(c) In construing and enforcing the provisions of this act relating to penalties, the act, omission or failure of any officer, agent or employee of any public utility, acting within the scope of his official duties or employment, shall in every case be and be deemed to be the act, omission or failure of such public utility.

Section 62. Every officer, agent or employee of any public utility, who violates or fails to comply with, or who procures, aids or abets any violation by any public utility of any provision of the constitution of this State or of this act, or who fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement or any part or provision thereof, of the commission, except an order for the payment of money, or who procures, aids or abets any public utility in its failure to obey, observe and comply with any such order, decision, rule, direction, demand or requirement, or any part or provision thereof in a case in which a penalty has not hereinbefore been provided for such officer, agent or employee, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

Section 63. Every corporation other than a public utility which violates any provision of this act, or which fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement, or any part or provision thereof, of the commission, except an order for the payment of money, in a

case in which a penalty has not hereinbefore been provided for such corporation or person is subject to a penalty of not more than two thousand dollars for each and every offense.

Section 64. Every person who, either individually or acting as an officer, agent or employee of a corporation other than a public utility, violates any provision of this act, or fails to observe, obey or comply with any order, decision, rule, direction, demand or requirement, or any part or portion thereof, of the commission, or who procures, aids or abets any such public utility in its violation of this act, or in its failure to obey, observe or comply with any such order, decision, rule, direction, demand or requirement, or any part or portion thereof, in a case in which a penalty has not hereinbefore been provided for, such person is guilty of a misdemeanor and is punishable by a fine of not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

Section 65. Actions to recover penalties under this act shall be brought in the name of the people of the State of Colorado, in the district court in and for the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides. Such action shall be commenced and prosecuted to final judgment by the attorney of the commission. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of The Public Utility Commission Fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

Section 66. (a) Every public utility, corporation or person which shall fail to observe, obey or comply with any order, decision, rule, direction, demand or requirement, or any part or portion thereof, of the commission or any commissioner, except an order for the payment of money, shall be in contempt of the commission, and shall be punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this action shall not be a bar to or affect any other remedy prescribed in this act, but shall be cumulative and in addition to such other remedy or remedies.

(b) This act shall not affect pending actions or proceedings brought by or against the people of the State of Colorado or the Railroad Commission, or by any other person or corporation

under the provisions of chapter 5 of the laws of 1910, but the same may be prosecuted and defended with the same effect as though this act had not been passed. Any investigation, hearing or examination undertaken, commenced, instituted or prosecuted by the Railroad Commission prior to the taking effect of this act may be conducted and continued to a final determination in the same manner and with the same effect as if it had been undertaken, commenced, instituted or prosecuted in accordance with the provisions of this act. All proceedings heretofore taken by the Railroad Commission in any such investigation, hearing or examination are hereby ratified, approved, validated and confirmed and all such proceedings shall have the same force and effect as if they had been undertaken, commenced, instituted and prosecuted under the provisions of this act and in the manner herein prescribed.

(c) No cause of action arising under the provisions of chapter 5 of the laws of 1910 shall abate by reason of the passage of this act, whether a suit or action has been instituted thereon at the time of taking effect of this act or not, but actions may be brought upon such causes in the same manner, under the same terms and conditions, and with the same effect as though parts of said chapters had not been repealed.

(d) All orders, decisions, rules or regulations heretofore made, issued or promulgated by the Railroad Commission shall continue in force and have the same effect as though they had been lawfully made, issued or promulgated under the provisions of this act.

Section 67. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The General Assembly hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 68. Neither this act nor any provision thereof, except when specifically so stated, shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this Union, except in so far as the same may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

Section 69. That sections 11, 16, 17, 18, 19 and 20 of chapter 5, laws of 1910, entitled "An act to amend and as amended to re-enact an act entitled '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 and the same are hereby repealed, and the remaining sections of said chapter 5, laws 1910, where not in conflict with this act, are hereby expressly declared to be and remain in full force and effect, as if this act had not been passed; except that the powers and duties therein conferred upon the State Railroad Commission of Colorado, are hereby transferred and conferred upon the commission created by this act.

All other acts and parts of acts in conflict with this act are hereby repealed.

Approved April 12th, 1913, at 4:55 P. M.

INDEX TO ACT.

NOTE—This Index has been compiled solely to facilitate the finding of subjects contained in the Act and is not to be construed as an interpretation of any section or portion thereof.

Page

ACCOUNTANTS,
- employment of, Sec. 7 ... 269
- salary of, Sec. 7 ... 269

ACCOUNTS,
- access to and examination of, Sec. 43 ... 284
- depreciation, Commission can prescribe, Sec. 34 ... 281
- system of, Commission can prescribe, Sec. 33 ... 280
- utility must keep separate during stay of orders by Supreme Court, Sec. 53d ... 289
- without the State, Commission can order production of, Sec. 44 ... 284

ACT,
- definition of, Secs. 1, 2 ... 267
- relation of, to Interstate Commerce, Sec. 68 ... 296
- sections of, unconstitutional, do not invalidate balance, Sec. 67a ... 296

ACTS,
- repealed, Sections of Laws of 1910 repealed, Sec. 69 ... 296

Act of employees of utility in violation is act of utility, Sec. 61c ... 294

ACTION,
- cause of, on rehearings, Sec. 51 ... 287
- cause of, under Chapter 5, Laws of 1910, not abated, Sec. 66c ... 296
- for recovery, utility may bring in competent court, Sec. 58a ... 292
- for violation, Commission may commence, Sec. 60 ... 293
- right of, not waived by Act, Sec. 59a ... 293
- to recover penalties, Sec. 65 ... 295

ACTIONS,
- by State prior to Act not affected by Act, Sec. 66b ... 295
- by Railroad Commission prior to Act not affected by Act, Sec. 66b ... 295
- collateral, orders of Commission are conclusive in, Sec. 50 ... 287
- of Railroad Commission adopted, Sec. 66b ... 295
- under Act have preference to other civil causes, Sec. 54 ... 290

AGENTS,
- of corporation not public utility liable for violation, Sec. 64 ... 295
- of utility liable for violation, Sec. 62 ... 294

AGREEMENTS,
- discrimination in, prohibited, Sec. 17c ... 274

Appeal to Supreme Court in violation proceedings, Sec. 60 ... 293

Page

APPLICATIONS,
for rehearing, denied—Applicant may appeal to Supreme Court, Sec. 52 ... 288
for rehearing, no excuse for non-compliance with orders, Sec. 51. 287
for rehearing, time allowed for granting, Sec. 52 ... 288
for rehearing, may be made for, Sec. 51 ... 287

ATTORNEY,
employment of, Sec. 7 ... 269
salary of, Sec. 10a ... 270
to begin action for violations in proper court, Sec. 60 ... 293
General, duty of, to aid Commission in suits for violation of law, Sec. 57 ... 292
District, duty of, to aid Commission in suits for violation of law, Sec. 57 ... 292

AUTHORITIES,
certified copies are true copies, Sec. 41b ... 283
issued under Secs. 27, 28, must be in writing, Sec. 41b ... 283

AUTOMOBILES,
when are common carriers, Sec. 2e ... 267
when subject to the Act, Sec. 1b ... 267

BOND, necessary on order stayed by Supreme Court, Sec. 53c ... 289

BOOKS, See Documents.

Car loading company, is common carrier, Sec. 2e ... 267
Car loaning company, is common carrier, Sec. 2e ... 267

CARRIER,
common, description of, Sec. 2e ... 267
common, is public utility, Sec. 3 ... 268
Cause of action, on rehearings, Sec. 51 ... 287

CERTIFICATES,
certified copies are true copies, Sec. 41b ... 283
fees payable to Commission for issuing, Sec. 42 ... 283
issued under Secs. 27, 28, must be in writing, Sec. 41b ... 283

CHARGES,
filed, must not exceed those in effect Oct. 10, 1912, Sec. 15 ... 271
preference in, must not be given to localities or corporations, Sec. 18 ... 274
See also RATES.

CLASSIFICATION,
Commission has power to suspend, Sec. 48 ... 286
See also RATES.

CLASSIFICATIONS,
reasonable, Commission has power to determine, Sec. 23a ... 276
reasonable, Commission has power to prescribe, Sec. 23b ... 276
utilities must file tariffs showing, Sec. 15 ... 271

CLERKS,
employment of, Sec. 7 ... 269
salary of, Sec. 10a ... 270
Collateral actions—Orders of Commission are conclusive in, Sec. 50 ... 287

Page

COMMISSION,
action for contempt of, Sec. 66a ... 295
adopts actions of Railroad Commission, Sec. 66b ... 295
appointment of, Sec. 4 ... 268
action for violation may be commenced by, Sec. 60 ... 293
accounts, may prescribe system of, Sec. 33 ... 280
accounts, depreciation, may prescribe, Sec. 34 ... 281
attendance of witnesses, may compel, Sec. 40a ... 282
administer oaths, may, Sec. 40a ... 282
connection between telephone companies, may order, Sec. 27 ... 278
connection between telegraph companies, may order, Sec. 27 ... 278
conclusions and finding of, not subject to review, Sec. 52 ... 288
duty of, to enforce utility laws, Sec. 57 ... 292
decisions, may alter, amend or rescind, Sec. 49 ... 287
documents, may order production of, when without the State, Sec. 44 ... 284
documents, may order production of, Sec. 40a ... 282
demurrage rules and penalties, may prescribe, Sec. 30b ... 279
decisions, State courts, jurisdiction over, Sec. 52 ... 288
decisions, Supreme Court may stay on writ of review, Sec. 53a ... 289
employees, employment of, Sec. 7 ... 269
employees, salary of, Sec. 10a ... 270
express packages, may prescribe time for delivery of, Sec. 30a ... 279
express packages, may prescribe limits for free delivery of, Sec. 30a ... 279
expenses of, Sec. 10b ... 270
facilities for safety, may require and prescribe, Sec. 29 ... 279
fees collected for documents, certificates, etc., Sec. 42 ... 283
hearings, orders not invalidated by informality in, Sec. 38 ... 281
hearings, may enforce attendance of witnesses, Sec. 46 ... 285
hearings, rules for, Sec. 46 ... 285
location of office, Sec. 8a ... 269
meters, may enter premises to inspect, Sec. 31b ... 280
orders of, may alter, amend or rescind, Sec. 49 ... 287
orders of, not invalidated by informality in hearings, Sec. 38 ... 281
pass free while on business, Sec. 11 ... 270
rates, power of to govern, Sec. 14 ... 271
rates, power to revoke approval of, Sec. 18 ... 274
rates, can determine reasonable, Sec. 23a ... 276
rates, can investigate, Sec. 23b ... 276
rates, depreciation account, may prescribe, Sec. 34 ... 281
rates, may suspend, Sec. 48 ... 286
rates, can enter hearing concerning, Sec. 48 ... 286
rates, shall establish reasonable on hearing, Sec. 48 ... 286
records, has right of access to and examination of, Sec. 43 ... 284
records, may order production of, when without the State, Sec. 44 ... 284
recovery, power to punish for contempt not affected by, Secs. 58b, 59b ... 293
rehearing, may grant on sufficient grounds, Sec. 51 ... 287
report, annual, to be made, Sec. 12 ... 271
residence of four years in State prior to appointment necessary to become member of or employe of, Sec. 7 ... 269
schedules, train, may prescribe, Sec. 26 ... 277
seal of, Sec. 8b ... 270
secretary, employment of, Sec. 6 ... 269
secretary, salary of, Sec. 6 ... 269
service, train, may prescribe adequate, Sec. 26 ... 277
standard of measurement for service, Sec. 31a ... 279
storage rules and penalties, may prescribe, Sec. 30b ... 279
structures, physical, has power to order new, Sec. 25 ... 276

Page

COMMISSION—Continued.
subpoenas, has power to issue, Sec. 39 ... 281
summons, has power to issue, Sec. 39 ... 281
supplies, for use of, Sec. 8c ... 270
telegraph free delivery, may prescribe limits of, Sec. 30a ... 279
tracks, may require joint use of, Sec. 28 ... 278
valuation, may hold hearing concerning, Sec. 55 ... 290
valuation, of utilities, has power to make, Sec. 32 ... 280
wires, may require joint use of, Sec. 28 ... 278

COMMISSIONERS,
appointment of, Sec. 4 ... 268
power of, individually, Sec. 9 ... 270
power to issue subpoenas, summons, etc., Sec. 39 ... 281
residence, four years in State prior to appointment necessary, Sec. 7 ... 269
salaries of, Sec. 4 ... 268

COMPLAINT,
how made, Sec. 45 ... 284
on motion of Commission, Sec. 45 ... 284
signatures necessary, Sec. 45 ... 284
time and place of hearing, Sec. 45 ... 284
utilities may file with Commission, Sec. 47 ... 286

Conduits, Commission may require joint use of, Sec. 28 ... 278

Conclusions of Commission not subject to review, Sec. 52 ... 288

CONNECTION,
between telephone companies, Commission may order, Sec. 27 ... 278
between telegraph companies, Commission may order, Sec. 27 ... 278

Consolidation, See UTILITIES.

Consumer may have meters tested, Sec. 31c ... 280

Contempt, Commission may punish for, Sec. 66a ... 295

CONTRACT,
affecting rates, utilities must file, Sec. 15 ... 271
discrimination in, prohibited, Sec. 17c ... 274
Commission has power to suspend, Sec. 48 ... 286

Corporations, Utility, definition of, Sec. 2c ... 267

COURTS,
State, jurisdiction over orders of Commission, Sec. 52 ... 288
See also SUPREME COURT.

Damages, utility liable for, Sec. 58a ... 292

DECISIONS, of Commission
Commission may alter, amend or rescind, Sec. 49 ... 287
not invalidated by informality in hearings, Sec. 38 ... 281
State Courts, jurisdiction over, Sec. 52 ... 288
Supreme Court may stay on writ of review, Sec. 53a ... 289
stayed by Supreme Court, notice of time for, Sec. 53b ... 289
stayed, utility shall deposit excess moneys collected during, Sec. 53c ... 289
of valuation, subject to review by Supreme Court, Sec. 55 ... 290
of valuation, certified are evidence, Sec. 55 ... 290
of Railroad Commission, continue in force, Sec. 66d ... 296

Depreciation Account Rates, Commission may prescribe, Sec. 34 ... 281

Page
Demurrage, Commission's jurisdiction over, Sec. 30b..... 279
Dining Car Company, is common carrier, Sec. 2e..... 267
Discrimination, See RATES.
Dispatch company, is common carrier, Sec. 2e..... 267

DISTRICT COURTS,
may compel attendance of witnesses, Sec. 40b..... 282
may compel production of records, Sec. 40b..... 282

DOCUMENTS,
certified copies of those filed with Commission are evidence, Sec. 41a, b..... 283
fees payable to Commission for copies of, Sec. 42..... 283
Commission has access to and examination of, Sec. 43..... 284
Commission may compel production of those without the State, Sec. 44 284
Drawing-room Car Company, is common carrier, Sec. 2e..... 267

ELECTRICAL,
company is public utility, Sec. 3..... 268
rates, Commission can prescribe, Sec. 31a..... 279
standards of measurement, Commission can prescribe, Sec. 31a... 279

EMPLOYEES,
of Commission, employment of, Sec. 7..... 269
of Commission, salary of, Sec. 10a..... 270
of Corporation not public utility, liable for violation, Sec. 64.... 295
of utility, liable for violation, Sec. 62..... 294

ENGINEERS,
of Commission, employment of, Sec. 7..... 276
of Commission, salary of, Sec. 10a..... 270

EQUIPMENT,
Commission has power to prescribe adequate, Sec. 24..... 276
utilities must furnish adequate, Sec. 13b..... 271

EVIDENCE,
certified copies of orders and decisions are, Sec. 41a, b, Sec. 55 .....283, 290
new, may not be introduced before Supreme Court on denied Rehearing, Sec. 52..... 288

EXPERTS,
of Commission, employment of, Sec. 7..... 269
of Commission, salary of, Sec. 10a..... 270

EXPRESS,
company, is common carrier, Sec. 2e..... 267
packages, Commission may prescribe time of delivery, Sec. 30a.. 279
packages, Commission may prescribe free limits of delivery, Sec. 30a 279

FACILITIES,
adequate, Commission has power to prescribe, Sec. 24..... 276
for safety, Commission has power to prescribe, Sec. 29..... 279
preference in, must not be given to localities or corporations, Sec. 18 274
utilities must furnish reasonable, Sec. 13b..... 271
utilities must file tariffs showing, Sec. 15..... 271

Page

FARES, See RATES.

FINDINGS,
of Commission, not subject to review, Sec. 52 ... 288
on valuation, certified are evidence, Sec. 55 ... 290

FRANKS,
issuance of, by telephone companies, Sec. 17a, b ... 272
issuance of, by telegraph companies, Sec. 17a, b ... 272
issuance of, to common carriers and employees, Sec. 17a, b ... 272

FREIGHT,
Company, is common carrier, Sec. 2e ... 267
Line company, is common carrier, Sec. 2e ... 267
Fruit Transportation Company, is common carrier, Sec. 2e ... 267

GAS
Company, is public utility, Sec. 3 ... 268
rates, Commission can prescribe, Sec. 31a ... 279
standards of measurement, Commission can prescribe, Sec. 31a ... 279

HEARINGS,
Commission may enter on initiative concerning rates, Sec. 48 ... 286
Commission may hold regarding valuation, Sec. 55 ... 290
may be entered concerning rates or schedules, Sec. 48 ... 286
on complaint, notice of time and place, Sec. 45 ... 284
record of proceedings to be kept, Sec. 46 ... 285
rules for, Sec. 38 ... 281
testimony and records are records in rehearings, Sec. 46 ... 285

HEAT,
charges for, may be graduated, Sec. 18 ... 274
charges for, in relation to dividends, Sec. 18 ... 274

Immunity, not granted to utilities by testimony given, Sec. 40b ... 282
Information, duty of utilities to furnish, Sec. 22 ... 275
Injunction, Courts may issue in violation proceedings, Sec. 60 ... 293
Injury, utility liable for, Sec. 58a ... 292

INSPECTORS,
of Commission, employment of, Sec. 7 ... 269
of Commission, salary of, Sec. 10a ... 270

INTERSTATE COMMERCE,
relation of Act to, Sec. 68 ... 296
Intervention, allowed persons and corporations at hearings, Sec. 46 ... 285
Irrigation companies, not subject to Act, Sec. 3 ... 268

LAWS,
duty of Commission to enforce, Sec. 57 ... 292

LEASE, See UTILITIES.

LIABILITY,
of corporation not a public utility, Sec. 63 ... 294
of officers, employees, etc., of public utilities, Sec. 62 ... 294
of officers, employees, etc., of corporation not a public utility, Sec. 64 ... 295
of utility, for damages, Sec. 58a ... 292

Page

LIGHT,
charges for, may be graduated, Sec. 18 274
charges for, in relation to dividends, Sec. 18 274

Mandamus, Courts may issue in violation proceedings, Sec. 60 293

Measurement, See Standards of Measurement.

Memoranda, system of, Commission can prescribe, Sec. 33 280

Merger, See UTILITIES.

METERS,
Commission may enter premises to inspect, Sec. 31b 280
consumer may have tested, Sec. 31c 280
regulations for testing, Commission can prescribe, Sec. 31a 279

Moneys, excess, collected during stay of order shall revert to State when advertised and unclaimed, Sec. 53d 289

MORTGAGE, See UTILITIES.

OFFICERS,
of corporation not public utility liable for violation, Sec. 64 295
of utility liable for violation, Sec. 62 294

Oil Transportation Company, is common carrier, Sec. 2e 267

ORDERS,
of Commission, not invalidated by informality in hearings, Sec. 38 281
of Commission, certified copies are true copies, Sec. 41a 283
of Commission, Commission may alter, amend or rescind, Sec. 48. 286
of Commission, effective twenty days after service, Sec. 46 285
of Commission, effective until changed by Commission, Sec. 46 ... 285
of Commission, made on hearings, shall be filed, Sec. 46 285
issued under Secs. 27, 28, must be in writing, Sec. 41b 283
of Railroad Commission continue in force, Sec. 66d 296
of Commission, may be suspended on application for rehearing, Sec. 51 287
of Commission, State Courts, jurisdiction over, Sec. 52 288
of Commission, Supreme Court may stay on writ of review, Sec. 53a 289
of Commission, stayed by Supreme Court, notice of time for, Sec. 53b 289
of Commission, stayed, utility must deposit excess moneys collected during, Sec. 53c 289
of Commission, on valuation, subject to review by Supreme Court, Sec. 55 290
of Commission, on valuation, certified copies are evidence, Sec. 55 290

PAPERS,
Commission has access to and examination of, Sec. 43 284
Commission can compel production of, when without the State, Sec. 44 284
See also DOCUMENTS.

PASSES, See TRANSPORTATION.

PENALTIES,
action to recover, Sec. 65 295
collected by State not affected by recovery, Sec. 58b 293
are cumulative, Sec. 59b 293

Page

PENALTIES—Continued.
duty of Commission to collect, Sec. 57 ... 292
recovery of, not to be affected by recovery of other penalties, Sec. 59b ... 293
violation, prescribed for, Sec. 61a ... 294
violation by officers, employees, etc., of utilities, Sec. 62 ... 294
violation by corporation not public utility, Sec. 63 ... 294
violation by officers, employees, etc., of corporation not public utility, Sec. 64 ... 295

PETITIONS, See APPLICATIONS.

Pipe Line, is public utility, Sec. 3 ... 268

Pipes, Commission may require joint use of, Sec. 28 ... 278

POWER,
charges for, may be graduated, Sec. 18 ... 274
charges for, in relation to dividends, Sec. 18 ... 274

Privileges, utilities must file tariffs showing, Sec. 15 ... 271

PROCEEDINGS,
under Act have preference to other civil causes, Sec. 54 ... 290
before Supreme Court, Sec. 52 ... 288
of Railroad Commission adopted, Sec. 66b ... 295

Publications, fees payable to Commission for, Sec. 42 ... 283

RAILROAD,
company, is common carrier, Sec. 2e ... 267
Commission, actions of, adopted, Sec. 66b ... 295
Commission, orders and decisions of, continue in force, Sec. 66d ... 296
Interurban, fares, See RATES.
Interurban, must issue transfers, Sec. 21 ... 275
Street, is common carrier, Sec. 2e ... 267
Street, fares, See RATES.
Street, must issue transfers, Sec. 21 ... 275

RATES,
abuses of, Commission has power to correct, Sec. 14 ... 271
change, thirty days' notice required, except by authority, Sec. 16 ... 272
changes, must be indicated, Sec. 16 ... 272
discrimination in, Commission has power to prevent, Sec. 14 ... 271
discrimination prohibited, Sec. 17c ... 274
depreciation account, Commission can prescribe, Sec. 34 ... 281
establish new, Commission has power to, Sec. 23b ... 276
electrical, Commission can prescribe, Sec. 31a ... 279
effective, except by authority, on thirty days' notice, Sec. 16 ... 272
filed, must not exceed those in effect Oct. 10, 1912, Sec. 15 ... 271
gas, Commission can prescribe, Sec. 31a ... 279
hearing, Commission may enter on initiative concerning, Sec. 48 ... 286
investigate, Commission has power to, Sec. 23b ... 276
just, must be, Sec. 13a ... 271
preference in, must not be given to localities or corporations, Sec. 18 ... 274
power of Commission to revoke approval of, Sec. 18 ... 274
reasonable, Commission has power to determine, Sec. 23a ... 276
reasonable, Commission can establish on hearing, Sec. 48 ... 286
reparation allowed on unreasonable, Sec. 56a ... 292
street railroad, must not exceed 5 cents within town limits, Sec. 21 ... 275
Commission may suspend, Sec. 48 ... 286

Page

RATES—Continued.
suspension, time of, Sec. 48 ... 286
not suspended are effective on legal notice, Sec. 48 ... 286
telephone, intermediate not to exceed longer, Sec. 20 ... 275
telephone, through not to exceed aggregate of intermediate, Sec. 20 ... 275
telephone, Commission may relieve company from long and short distance clause, Sec. 20 ... 275
telegraph, intermediate not to exceed longer, Sec. 20 ... 275
telegraph, through not to exceed aggregate of intermediate, Sec. 20 ... 275
telegraph, Commission may relieve company from long and short distance clause, Sec. 20 ... 275
unreasonable, are unlawful, Sec. 13a ... 271
water, Commission may prescribe, Sec. 31a ... 279

REBATING, Prohibited, Sec. 17c ... 274

RECORDS,
fees payable to Commission for copies of, Sec. 42 ... 283
form of, Commission may prescribe, Sec. 33 ... 280
Commission may order production of those without the State, Sec. 44 ... 284
See also DOCUMENTS.

Refrigerator Line Company, is common carrier, Sec. 2e ... 267

REGULATIONS,
Commission may suspend, Sec. 48 ... 286
of Railroad Commission, continue in force, Sec. 66d ... 296
reasonable, Commission can determine, Sec. 23a ... 276
utilities must file tariffs showing, Sec. 15 ... 271
See also RATES.

REHEARINGS,
application for, no excuse for non-compliance of orders, Sec. 51 ... 287
denied, applicant may apply to Supreme Court for writ of review, Sec. 52 ... 288
may be held to determine valuations, re-valuations, etc., Sec. 55 ... 290
Commission may hold on sufficient grounds, Sec. 51 ... 287
testimony and exhibits of original hearing are records in, Sec. 46. 285
time for granting and rehearing, Sec. 51 ... 287

Remedies in action for contempt are cumulative, Sec. 66a ... 295

RENTALS,
discrimination in, prohibited, Sec. 17c ... 274
filed, must not exceed those in effect Oct. 10, 1912, Sec. 15 ... 271
reasonable, Commission can prescribe, Sec. 23b ... 276
reasonable, Commission can determine, Sec. 23a ... 276
Commission may suspend, Sec. 48 ... 286
See also RATES.
utilities must file tariffs showing, Sec. 15 ... 271

REPARATION,
allowed on unreasonable rates, Sec. 56a ... 292
suit may be brought by Commission to compel, Sec. 56b ... 292
time limit to bring suit on Commission's order one year, Sec. 56b. 292
time limit to petition Commission for, two years, Sec. 56b ... 292

Repairs to structures, Commission has power to order, Sec. 25 ... 276
Repeal of Acts, See ACTS.
Residence, four years in State prior to appointment necessary to become member or employe of Commission, Sec. 7 ... 269
Rights of action, not waived by Act, Sec. 59a ... 293

Page

RULES,
Commission may suspend, Sec. 48 ... 286
of Railroad Commission, continue in force, Sec. 66d ... 296
reasonable, Commission has power to determine, Sec. 23a ... 276
reasonable, Commission has power to prescribe, Sec. 23b ... 276
utilities must file tariffs showing, Sec. 15 ... 271
See also RATES.

Safety, facilities for, Commission has power to prescribe, Sec. 29 ... 279

Saving clause of Act, Sec. 67a ... 296

SCHEDULES,
train, Commission has power to prescribe, Sec. 26 ... 277
See also TARIFFS.

Sections of Act, unconstitutional, do not invalidate balance, Sec. 67a ... 296

Security, utility must give, during order stayed by Supreme Court, Sec. 53c, d ... 289

SERVICE,
adequate, Commission has power to prescribe, Sec. 24 ... 276
preference in, must not be given to localities or corporations, Sec. 18 ... 274
train, Commission has power to order adequate, Sec. 26 ... 277
utilities must furnish reasonable, Sec. 13b ... 271
of summons, how made, Sec. 45 ... 284

Sleeping Car Company, is common carrier, Sec. 2e ... 267

STANDARDS,
of measurement, electrical, Commission has power to prescribe, Sec. 31a ... 279
of measurement, gas, Commission has power to prescribe, Sec. 31a 279
of measurement, water, Commission has power to prescribe, Sec. 31a ... 279
See also RATES.

STATISTICIANS,
of Commission, employment of, Sec. 7 ... 269
of Commission, salary of, Sec. 10a ... 270

Stock Transportation Company, is common carrier, Sec. 2e ... 267

Storage of freight, power of Commission over, Sec. 30b ... 279

STRUCTURES,
physical, Commission has power to order new, Sec. 25 ... 276
physical, Commission has power to order repairs to, Sec. 25 ... 276

Subpoenas, Commission can issue, Sec. 39 ... 281

Suit, Commission may institute to compel reparation, Sec. 56b ... 292

SUMMONS,
service of, Sec. 45 ... 284
writs of, Commission can issue, Sec. 39 ... 281

SUPREME COURT,
applicant may apply for writ of review on denied rehearing, Sec. 52 ... 288
appeal to in violation proceedings, Sec. 60 ... 293
bond necessary on orders stayed by, Sec. 53c ... 289
may stay orders of Commission on writ of review, Sec. 53a ... 289
notice of time to stay decisions and orders, Sec. 53b ... 289
shall order utilities to deposit excess moneys collected during stay of order, Sec. 53c ... 289

Page

SUSPENSION,
Commission may suspend rates or schedules, Sec. 48..... 286
of tariffs and rates, time of, Sec. 48..... 286

TELEGRAPH,
company, is public utility, Sec. 3..... 268
corporation, duty of to transmit messages of connections, Sec. 19. 275
companies, Commission has power to order connections between, Sec. 27 278
limits of free delivery, Commission can prescribe, Sec. 30a..... 279
rates, See RATES.
service, charges for, may be graduated, Sec. 18..... 274
service, charges for, in relation to dividends, Sec. 18..... 274

TELEPHONE,
company, is public utility, Sec. 3..... 268
corporation, duty of to transmit messages of connections, Sec. 19. 275
companies, Commission has power to order connections between, Sec. 27 278
rates, See RATES.
service, charges for, may be graduated, Sec. 18..... 274
service, charges for, in relation to dividends, Sec. 18..... 274

TOLLS,
discrimination in, prohibited, Sec. 17c..... 274
filed, must not exceed those in effect on Oct. 10, 1912, Sec. 15.... 271
utilities must file tariffs showing, Sec. 15..... 271
See also RATES.

Tracks, Commission may require joint use of, Sec. 28..... 278

TARIFFS,
Commission has power to investigate, Sec. 23b..... 276
Commission has power to suspend, Sec. 48..... 286
suspension, time for, Sec. 48..... 286
utilities must file, Sec. 15..... 271
utilities must post, Sec. 15..... 271

TRANSPORTATION, FREE
to whom allowed, Sec. 17a..... 272
to Commission while on business, Sec. 17a..... 272
to caretakers, Sec. 17a..... 272
to customs inspectors, Sec. 17a..... 272
to employees of railway mail service, Sec. 17a..... 272
to employees of sleeping car companies, Sec. 17a..... 272
employees entitled to, Sec. 17a..... 272
to employees on express cars, Sec. 17a..... 272
express, to officers and employees, Sec. 17b..... 273
express, to officers and employees of common carriers, Sec. 17b... 273
families, defined, Sec. 17a..... 272
household goods of employees, Sec. 17b..... 273
to immigration inspectors, Sec. 17a..... 272
to linemen of telegraph companies, Sec. 17a..... 272
to linemen of telephone companies, Sec. 17a..... 272
to postoffice inspectors, Sec. 17a..... 272
prohibited, Sec. 17a..... 272
to whom prohibited, Sec. 17a..... 272

Page

UTILITIES, PUBLIC
complaint, may file with Commission, Sec. 47 ... 286
damages, liable for, Sec. 58a ... 292
definition of, Sec. 3 ... 268
information, duty of to furnish, Sec. 22 ... 275
recovery, may bring action for in competent court, Sec. 58a ... 292
violation proceedings, time allowed by courts to answer, Sec. 60 ... 293
violation by officers or employees is act of utility, Sec. 61c ... 294

VALUATION,
Commission has power to make, Sec. 32 ... 280
Commission may hold hearing concerning, Sec. 55 ... 290

VEHICLES,
when are common carriers, Sec. 2e ... 267
when subject to the Act, Sec. 1b ... 267

VIOLATION,
each is separate offense, Sec. 61b ... 294
by corporation not a public utility, Sec. 63 ... 294
by officers or employees of utility is act of utility, Sec. 61c ... 294
penalties for, Sec. 61a ... 294
proceedings for, Sec. 60 ... 293

WATER,
charges for, may be graduated, Sec. 18 ... 274
charges for, in relation to dividends, Sec. 18 ... 274
rates, Commission can prescribe, Sec. 31a ... 279
rates, See also RATES.
standards of measurement, Commission can prescribe, Sec. 31a ... 279

WIRES, Commission may require joint use of, Sec. 28 ... 278

WITNESSES,
can be summoned, etc., Sec. 40a, b ... 282
expenses of, who to bear, Sec. 40a ... 282

SECTION 5.

RULES OF PRACTICE AND PROCEDURE, WITH INDEX.

RULES OF PRACTICE AND PROCEDURE.

The following rules of practice and procedure are adopted by the Public Utilities Commission of the State of Colorado in accordance with the provisions of section 38 of the Public Utilities Act:

RULE I

DEFINITIONS.

1. The term "public utility," when used in these rules, includes every common carrier, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, person, or municipality operating for the purpose of supplying the public for domestic, mechanical, or public uses, and every corporation or person now or hereafter declared by law to be affected with a public interest, and each thereof, is hereby declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the Commission and to the provisions of this act, as those terms are defined in section 3 of the Public Utilities Act.

2. The term "Commission," when used in these rules, means the Public Utilities Commission of the State of Colorado.

3. The term "formal proceeding," when used in these rules, means a proceeding which contemplates a hearing before the Commission or a commissioner sitting in a quasi-judicial capacity. A formal proceeding may be either (a) a complaint or (b) an application.

4. The term "complaint," when used in these rules, means a formal proceeding, whether brought upon the Commission's own motion or upon complaint of a third party, having for its object the rendition of an order or decision which can be enforced by the Commission.

5. The term "application," when used in these rules, means a formal proceeding brought by a public utility, for the purpose of securing the Commission's authorization or permission to perform an act.

RULE II

SESSIONS OF COMMISSION.

The office of the Commission shall be in the Capitol Building in Denver, Colorado, and shall always be open, legal holidays and

Sundays excepted. The regular sessions of the Commission shall be held in its office on each day of every month, at 10 o'clock a. m., legal holidays and Sundays excepted, at which time any person having business with the Commission may appear and be heard. The Commission will hold other sessions elsewhere in the State of Colorado, at such times as it may designate. The sessions of the Commission shall be public.

RULE III

SECRETARY TO FURNISH INFORMATION.

The Commission's secretary will, upon request, advise as to the form of complaint, petition, answer, or other documents necessary to be filed in any formal proceeding, and furnish such information from the files of the Commission as will conduce to a full presentation of material facts.

RULE IV

FORMAL PROCEEDINGS—GENERAL MATTERS APPLICABLE TO ALL.

1. *Address of Commission.* All communications should be addressed to The Public Utilities Commission of the State of Colorado, Capitol Building, Denver, Colorado.

2. *Case Numbers.* The secretary shall assign to each formal proceeding a number, which the parties shall, before filing, place on all subsequent papers in such proceeding.

3. *Form and Size of Papers Filed.* All pleadings filed with the Commission in formal proceedings shall, as far as practicable, be printed or typewritten on one side of the paper only, and, as far as practicable, shall be upon paper 8½ by 13 inches in size. Each line and page shall be numbered.

4. *Amendments.* The Commission may, in its discretion, allow any pleading to be amended or corrected, or any omission therein to be supplied.

5. *Subpoenas.* Subpoenas requiring the attendance of a witness from any place in the state to any designated place of hearing, for the purpose of taking the testimony of such witness orally before the Commission, or one or more commissioners, may be issued by any commissioner or the secretary.

Subpoenas for the production of books, accounts, papers, way-bills, and other documents (unless issued upon the Commission's own motion) will be issued only upon application in writing stating, as nearly as possible, the books, accounts, papers, way-bills, or other documents desired to be produced.

6. *Service of Papers.* Personal service of papers in all hearings, investigations, and formal proceedings pending before the Commission may be made upon any person upon whom a summons

may be served in accordance with the provisions of the Code of Civil Procedure of this state. Service may also be made by mailing in a sealed envelope, registered, with postage prepaid, addressed to any party to such hearing, investigation, or formal proceeding, or to any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure. If service is made by mailing, and an act is to be performed within a specified time after service, the time for the performance of the act shall begin to run at the time the registered letter is received. When any party has appeared by attorney, service upon the attorney will be deemed proper service upon such party.

7. *Filing or Entry and Service of Orders.* Each order, authorization, or certificate made, issued, or approved by the Commission shall be in writing, and shall be filed with, or entered on the records of, the Commission, in accordance with the provisions of the Public Utilities Act, and a copy thereof, certified by the secretary under the seal of the Commission, shall be served upon or delivered to the corporation or person complained of, or the applicant, or his or its attorney.

8. *Intervention.* In any formal proceeding the Commission may permit any corporation, or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural, or municipal corporation to intervene and be heard, after opportunity has been given to the party or parties to such proceedings to be heard on such intervention. Leave thus granted shall entitle the intervenor to have notice of, and to appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard in person or by counsel on the argument.

RULE V

COMPLAINTS—CONTENTS AND PROCEEDINGS UP TO HEARING.

1. *Who May Complain.* Complaint may be made by the Commission of its own motion, or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural, or manufacturing association or organization, or any body politic or municipal corporation, by complaint in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed to be in violation, of any provision of law, or of any order or rule of the Commission.

(a) Any public utility shall have the right to complain on any of the grounds upon which complaint may be made by other parties.

2. *Contents of Complaint.* Each complaint shall show the venue, "Before the Public Utilities Commission of the State of Colorado," shall bear a heading showing the name of the complainant and the name of the defendant, and shall state:

(a) The full name and post-office address of the complainant.

(b) The full name and post-office address of the defendant.

(c) Fully, clearly, and with reasonable certainty the act or thing done or omitted to be done, of which complaint is made, with a reference, where practicable, to the law, order, or rule, and the section or sections thereof, of which a violation is claimed.

(d) Such other matters or facts, if any, as may be necessary to acquaint the Commission fully with the details of the alleged violation.

3. *Signature of Complaint.*

(a) The complaint shall be signed by the complainant or his attorney, if any, and shall show the name and post-office address of such attorney, and shall be verified. Complaints by unincorporated associations may be verified by any officer or director thereof.

(b) Except upon its own motion, the Commission will entertain no complaint as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless the same be signed by the mayor or the president or the chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers of such gas, electricity, water, or telephone service.

4. *Copies to Accompany Complaint.* At the time complainant files his original complaint, he must also file copies thereof equal in number to one more than twice the number of corporations or persons to be served.

5. *Procedure of Commission on Filing of Complaint.* Upon the filing of such complaint, the Commission shall immediately mail a copy thereof to the defendant or defendants, and shall also examine the same to ascertain whether it establishes a *prima facie* case and conforms to these rules. At any time within five days after the receipt by a defendant of such copy of such complaint, he may, in writing, call the Commission's attention to any defects therein, but this privilege shall not in any wise, unless the Commission specifically so orders, extend the time within which such defendant is required to satisfy the complaint or to answer. If the Commission is of the opinion that the complaint does not establish a *prima facie* case, or does not conform to these rules, it shall notify the complainant or his attorney to that effect, and opportunity may be given to amend the complaint within a specified time. If the complaint is not so amended within such time or such extension thereof as the Commission, for good cause shown, may grant, it will be dismissed.

If the Commission is of the opinion that such complaint, either as originally filed or as amended, does establish a *prima facie* case and conform to these rules, the Commission shall serve upon each corporation or person complained of, an order under the hand of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person, and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten days from the date of service of such order; provided, that the Commission may, in particular cases, require the answer to be filed within a shorter time.

6. *Satisfaction of Complaint.* If the defendant desires to satisfy the complaint, he may submit to the Commission, within the time allowed for the satisfaction or answer, a statement of the relief which he is willing to give. On the acceptance of this offer by the complainant and the approval of the Commission, no further proceedings need be taken.

7. *Answer to Complaint.* If satisfaction be not made as aforesaid, the corporation or person complained of must, within the time specified in the order, or such extension thereof as the Commission, for good cause shown, may grant, file an answer to the complaint, with admission of service by complainant or his attorney endorsed thereon, or an affidavit of service. The answer must contain a specific denial of such material allegations of the complaint as controverted by the defendant, and also a statement of any new matter constituting a defense. If the answering party has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer and place his denial upon that ground. The filing of an answer will not be deemed an admission of the sufficiency of the petition, but a motion to dismiss may be made at the hearing.

RULE VI

HEARINGS AND REHEARINGS—IN ALL FORMAL PROCEEDINGS.

1. *When Hearings Will Be Given.* Except as otherwise determined in specific cases, the Commission will grant a hearing in the following classes of cases:

(a) When an order to satisfy a complaint, or to make answer thereto, has been made, and the corporation or person complained of has not satisfied the cause of complaint. (Rule V.)

(b) When an application has been made in a formal proceeding.

2. *Notice of Place of Hearing.*

(a) Notice of the day and hour of a hearing shall be served at least ten days before the time set therefor, unless the Commission shall find that public necessity requires the hearing to be held

at an earlier date. Hearings shall be held in the office of the Commission in Denver, unless elsewhere specified in the notice.

(b) In formal applications the Commission may, in its discretion, give all other corporations or persons who may be affected thereby an opportunity to be heard, either by service upon them of a copy of the petition or by publication of the substance thereof, at the expense of the applicant, for such length of time and in such newspaper or newspapers as the Commission may designate. In such cases the form of the notice must be submitted to the secretary of the Commission for approval, and proof of the publication thereof must be filed with the secretary at or before the hearing.

3. *Stipulation as to Facts.* The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Commission or entered in the record, agree upon the facts, or any portion thereof, involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practicable. The Commission may in such cases require such additional evidence as it may deem necessary.

4. *Procedure at Hearings.*

(a) Witnesses will be examined orally and under oath before the Commission or a commissioner, unless the facts are stipulated or the Commission or commissioner otherwise orders.

(b) The complainant must establish the facts upon which he bases his complaint, unless the defendant admits the same or fails to answer the complaint. The defendant must likewise give evidence of the facts alleged in the answer, unless admitted by the complainant, and must 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 order thereon as the circumstances of the case may require.

(c) If documentary evidence is offered, the Commission, in lieu of requiring the originals to be filed, may, in its discretion, accept certified, or otherwise authenticated, copies of such documents, or such portions of the same as may be relevant, or may require such evidence to be transcribed as part of the record.

5. *Adjournments.* Hearings may be adjourned from time to time by or at the direction of the Commission or a commissioner.

6. *Briefs.* The Commission or a commissioner may require the submission of briefs.

7. *Investigations on Commission's Own Motion.* The Commission may at any time, of its own motion, make investigations and order hearings into any act or thing done or omitted to be done by any public utility, which the Commission may believe is in violation of any provision of law, or of any order or rule of the Commission. It may also, through its own experts or employees, or otherwise, secure such evidence as it may consider

necessary or desirable in any formal proceeding, in addition to the evidence presented by the parties.

8. *Rehearings.* Any party to a formal proceeding, or any stockholder or bondholder, or other party pecuniarily interested in the public utility affected, may apply for a rehearing as to any matters determined by the Commission and specified in the application for the rehearing, and the Commission may grant and hold such rehearing on said matters, if in its judgment sufficient reason therefor be made to appear. Such application shall set forth specifically the ground or grounds on which the applicant considers the Commission's decision or order to be unlawful or erroneous. Rehearings must be asked for before the effective date of the decision or order complained of. In further respects, rehearings will be governed by the provisions of section 51 of the Public Utilities Act.

RULE VII

SWITCH CONNECTIONS, SPURS, AND EXTENSIONS—APPLICATION FOR

When application is made for the installation of a switch connection, spur, or extension, under the provisions of section 25 of the Public Utilities Act:

1. The application, in addition to the requirement of Rule V. 2, must state:

(a) Character and amount of business which will probably be tendered at such connection or spur.

(b) Length of track necessary to be built by defendant, and the cost of the same.

2. With the application shall be filed:

(a) Map on scale of not less than 100 feet per inch, showing location of existing tracks; property lines; buildings and structures in the vicinity; and the location and length of the proposed switch connection or spur. Such map should be filed in triplicate; one copy shall be on tracing linen, unless waived by the Commission.

RULE VIII

VALUE OF PROPERTY OF PUBLIC UTILITIES.

Formal proceedings instituted by the Commission to ascertain the value of the property of a public utility shall be conducted as specified in section 55 of the Public Utilities Act. Whenever in any formal proceeding the value of the property, or a portion thereof, of a public utility becomes relevant and pertinent, the Commission may, through its own experts and employees, or otherwise, investigate and ascertain such value.

RULE IX

APPLICATIONS—GENERAL MATTERS APPLICABLE TO ALL.

1. *Contents of Application.* All formal applications must be by petition in writing, signed by the applicant and duly verified. The petition must set forth the full name and post-office address of the applicant, and must show the full name and address of its attorney, if any, and must contain the facts on which the application is based, with a request for the order, authorization, permission, or certificate desired, and a reference to the particular provision of law requiring or providing for the same. Three copies of the petition shall be filed with the original, except in applications covered by Rules XIII, XIV, XV, in which cases the original petition alone need be filed.

The petition must contain such further statements as may be required by any provision of law or of these rules, and must show in detail compliance therewith.

If the applicant is a corporation, the Commission may require that there be annexed to the petition a certified or verified copy of its articles of incorporation or charter, and all amendments thereof. If maps or profiles are filed with the petition, they must always be filed in triplicate, and one copy thereof shall be on tracing linen.

2. *Documents Filed with Application.* Whenever under these rules any map, profile, certificate, statement, or other document is required to be filed with a petition, and the same has theretofore been filed with the Commission, the petition may state the fact of such filing, with the date and the proceedings in which, or occasion on which, the filing was made.

3. *Procedure of Commission on Filing of Petition.* Upon the filing of such petition, the Commission shall examine the same to see whether it establishes a *prima facie* case for action on the part of the Commission, and conforms to these rules. If the petition fails in either of these respects, the Commission will give notice of the defects to the applicant, who may correct the same. If the petition be found to state a *prima facie* case and to comply with the rules, the Commission may make an order *ex parte*, granting the application, or will appoint a time and place for a hearing on the same; provided, that a hearing shall always be held when provided for in the Public Utilities Act.

RULE X

RAILROAD CROSSINGS—APPLICATIONS FOR CONSTRUCTION, ALTERATION, OR ABOLITION OF.

When application is made for the construction, alteration, or abolition of crossings (1) of public roads, highways, or streets by railroads; or (2) of railroads by public roads, highways, or

streets; or (3) of railroads by railroads; or (4) of railroads by street railroads; or (5) of street railroads by railroads; or (6) of public roads or highways by street railroads; or (7) of street railroads by public roads or highways, under the provisions of the Public Utilities Act:

1. The petition, in addition to the requirements of Rule IX, must state:

(a) If the application is for a crossing at grade, such facts, data, and estimates of cost as tend to show that it is not reasonable or practicable to effect a separation of grades.

(b) Such safety device or other protection, if any, as the applicant may believe should be installed, with detailed information concerning the same.

2. With the petition shall be filed:

(a) Map on scale of not less than 200 feet per inch, showing accurately the location of all tracks, buildings, structures, property lines, streets, and roads in the vicinity of the proposed crossing.

(b) Profiles showing ground lines and proposed grade lines of approaches on such public roads, highways or streets, railroads or street railroads as may be affected by the proposed crossing. In case of a contemplated crossing of a railroad by a railroad, the profile of each railroad shall show the customary information for not less than one (1) mile on each side of the proposed crossing.

RULE XI

SAFETY DEVICES AT RAILROAD CROSSINGS— APPLICATIONS FOR.

Whenever a railroad or street railroad desires to protect any crossing which it may have at grade with another railroad or street railroad, with an interlocking or other safety device, it may make application to the Commission for an order approving such device and directing its construction, and also prescribing the division of the cost of construction, maintenance, and operation of the same.

1. The petition, in addition to the requirements of Rule IX, must state:

(a) The kind of device proposed, with a description thereof, and an estimate of the cost of its construction and operation.

(b) The average number of trains of each class, and of cars in case of street railroads, operated daily over the crossing by each railroad over a period of not less than thirty (30) days.

2. With the petition shall be filed:

(a) Map on scale of not less than 100 feet per inch, showing the location of main tracks; the length and location of all switches,

sidings, and spur tracks; all buildings and obstructions to the view in the vicinity; the proposed location of all derails, switches, signals, and detector bars, which are proposed to be operated by the device.

(b) A profile of each railroad or street railroad, showing the customary information for not less than one (1) mile on each side of the crossing, in case of railroads, and not less than 1,000 feet in case of street railroads.

(c) Copies of such contracts or agreements, if any, as may have been entered into relating to the construction or protection of the crossing.

RULE XII

INCREASES OR CHANGES IN CHARGES—APPLICATIONS FOR PERMISSION TO MAKE.

When application is made by any public utility to raise or change any rate, fare, toll, rental, or charge, or to alter any classification, contract, practice, rule, or regulation as to result in an increase in any rate, fare, toll, rental, or charge, under the provisions of sections 16 and 17 of the Public Utilities Act:

1. The application must state:

(a) The rates, fares, tolls, rentals, or charges in effect, and the increases which it is desired to make. These allegations may be made by reference to schedules accompanying the petition.

(b) The reasons for the increase, to be stated in full, so that the Commission may clearly see the justification therefor.

2. With the petition must be filed:

(a) Such schedules or data, if any, as the Commission's tariff circulars or other applicable orders may, from time to time, specify.

3. If the Commission is satisfied with the showing so made, it may take action on the application *ex parte;* otherwise it may order a hearing, and give notice thereof to such corporations or persons as it may consider necessary or desirable.

RULE XIII

EXCESSIVE OR DISCRIMINATORY CHARGES—APPLICATIONS FOR PERMISSION TO REFUND.

When application is made by any public utility to make reparation to any shipper or consumer on account of the rates charged to said shipper or consumer being excessive or discriminatory:

1. The petition must state:

(a) Such admissions, undertakings, or statements on the part of the applicant as to show to the Commission that, if allowed, exact justice will be done.

2. If the Commission is satisfied with the showing so made, it may take action on the application *ex parte;* otherwise it may order a hearing, and give notice thereof to such corporations or persons as it may consider necessary or desirable.

RULE XIV

EXTENSIONS OF TIME TO FILE REQUIRED REPORTS, STATEMENTS, OR DATA, OR TO COMPLY WITH COMMISSION'S ORDERS—APPLICATION FOR.

Whenever a public utility has been required by the Commission to file any report, statement, or data, or to comply with any other order of the Commission within a time specified, and for any reason is unable to do so within the time specified, it must, before the expiration of such time, file with the Commission an application for extension of time, in which event—

1. The petition shall set forth in detail:

(a) What, if any, effort has been made by the applicant to prepare such report, statement, or data, or to comply with such order.

(b) Any facts tending to show why the said report, statement, or data cannot be filed, or said order complied with, within the time prescribed.

(c) Any other facts which may make an extension of time necessary or proper.

(d) The further period of time deemed necessary by the applicant within which to make and file such report, statement, or data, or to comply with such order.

2. The Commission may direct a hearing upon said petition, and in that event the applicant shall attend before the Commission, or the commissioner holding the hearing, and produce such witnesses and documents as the Commission may require.

RULE XV

OTHER APPLICATIONS.

All applications relating to matters over which the Commission has jurisdiction, and which are not governed by any of the preceding rules, shall be made by petition, setting forth the name and address of the applicant, and the matter with reference to which the Commission's order, authorization, or permission is desired. Thereupon the procedure shall be such as the Commission may prescribe.

RULE XVI

DEVIATIONS FROM RULES—AUTHORIZATIONS FOR

In special cases, for good cause shown, the Commission may permit deviations from these rules, in so far as it may find compliance therewith to be impossible or impracticable.

RULE XVII

AMENDMENT OF RULES

The rules may be amended at any regular session of the Commission.

RULE XVIII

FORMS PRESCRIBED FOR USE

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

1. Formal Complaint.
2. Formal Application.
3. Order to Satisfy or Answer a Complaint.
4. Answer.
5. Notice of Hearing on Complaint.
6. Published Notice of Hearing on Application.

No. 1

FORM OF FORMAL COMPLAINT

Before The Public Utilities Commission of the State of Colorado

(Insert name of complainant), Complainant, vs. (Insert name of defendant), Defendant.	No..... (To be inserted by the secretary of the Commission.)

COMPLAINT

The complaint of (here insert full name of complainant) respectfully shows:

(1) That (here state occupation and post-office address of complainant).

(2) That (here insert full name, occupation, and post-office address of defendant).

(3) That (here insert fully, clearly, and with reasonable certainty the act or thing done or omitted to be done which complainant claims constitutes a cause of complaint, with reference, where practicable, to the law, order, or rule, and the section or sections thereof, of which a violation is claimed).

WHEREFORE, complainant asks (here state specifically the relief to which complainant believes he is entitled).

Dated at....., Colorado, this.....
day of....., 191....

.....
(Complainant's name.)

.....
(Name and address of attorney, if any.)

STATE OF COLORADO,
.....County of..... } ss.

(Insert name of complainant or other person qualified to verify), being first duly sworn, deposes and says: that he is the complainant in the action entitled as above; that he has read the foregoing complaint and knows the contents thereof; and that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and that as to those matters he believes it to be true.

.....

Subscribed and sworn to before me, this.....day of
.....191....

.....

Notary Public in and for the County.....of
....., State of Colorado.

No. 2

FORM OF FOMAL APPLICATION

Before The Public Utilities Commission of the State of Colorado

In the Matter of the Application of (here insert name of applicant) for (here insert desired order, authorization, permission, or certificate).	No..... (To be inserted by the secretary of the Commission.)

APPLICATION

The petition of (here insert name of applicant) respectfully shows:

1. That (here insert principal place of business or post-office address, character of business and territorial extent thereof, of applicant).

2. That (here insert fully, clearly, and with reasonable certainty the facts required by these rules, and any additional facts which the applicant desires to state to show the relief which he desires and the facts on which it is based).

WHEREFORE, petitioner asks that the Public Utilities Commission of the State of Colorado (here state specifically the action which the applicant desires the Commission to take).

Dated at ....., Colorado, this..... day of ....., 191....

.....
(Petitioner's name.)

(Verification.)

.....
(Name and address of attorney, if any.)

No. 3

FORM OF ORDER TO SATISFY OR ANSWER A COMPLAINT

Before The Public Utilities Commission of the State of Colorado

(Insert name of complainant), Complainant, vs. (Insert name of defendant), Defendant.	No..... (To be inserted by the secretary of the Commission.)

ORDER TO SATISFY OR ANSWER

To (here insert name and address of defendant):

You are hereby notified that a complaint has been filed in the action entitled as above against you as defendant, and you are hereby ordered to satisfy the matters therein complained of, or to answer said complaint in writing within ten (10) days from the service upon you of this order and the copy of said complaint which is hereunto attached.

By order of the Public Utilities Commission.

Dated at Denver, Colorado, this..... day of ....., 191....

.....

Secretary The Public Utilities Commission of the State of Colorado.

(Commission Seal.)

No. 4

FORM OF ANSWER TO FORMAL COMPLAINT

Before The Public Utilities Commission of the State of Colorado

(Insert name of complainant), Complainant, vs. (Insert name of defendant), Defendant.	No..... (To be inserted by the secretary of the Commission.)

ANSWER

The above-named defendant, for answer to the complaint in this proceeding, respectfully states:

1. That (here follow specific denials of such material allegations of the complaint as are controverted by the defendant, and also a statement of any new matter constituting a defense. Continue numbering each succeeding paragraph).

WHEREFORE, the defendant prays that the complaint be dismissed (or other appropriate prayer).

(Verification.) .....

(Name of defendant.)

No. 5

FORM OF NOTICE OF HEARING ON COMPLAINT

Before The Public Utilities Commission of the State of Colorado

(Insert name of complainant), Complainant, vs. (Insert name of defendant), Defendant.	No..... (To be inserted by the secretary of the Commission.)

NOTICE OF HEARING

To (here insert names of all parties):

You and each of you are hereby notified that the Public Utilities Commission of the State of Colorado has set the above-entitled case for hearing before Commissioner..... on (day of week), the (day of month) day of (name of month), 191..., at ..... o'clock .... m., in the office of the Commission, Capitol Building, Denver, Colorado, at which time and place you will be given an opportunity to be heard.

By order of the Public Utilities Commission.

Dated at Denver, Colorado, this.....day of ..... 191....

.....

Secretary The Public Utilities Commission of the State of Colorado.

(Commission Seal.)

No. 6

FORM OF PUBLISHED NOTICE OF HEARING ON APPLICATION

Before The Public Utilities Commission of the State of Colorado

In the Matter of the Application of (here insert name of applicant) for (here insert desired order, authorization, permission, or certificate).	No..... (To be inserted by the secretary of the Commission.)

NOTICE OF HEARING

Notice is hereby given that the application of (name of applicant in full) for the (approval, determination, consent, permission, certificate, or authorization) of the Public Utilities Commission of the State of Colorado to (here state nature of consent asked) will be heard before Commissioner..... at the office of the Commission in the Capitol Building, Denver, Colorado, on (day of week), the (day of month) day of (name of month), 191..., at ..... o'clock .... m.

By order of the Public Utilities Commission.

Dated at Denver, Colorado, this.....day of..... 191....

.....

Secretary The Public Utilities Commission of the State of Colorado.

INDEX

to

RULES OF PRACTICE AND PROCEDURE.

Page

Address of Commission 314
Adjournments of hearings 318
Amendments of rules 324
Amendments to complaints 314
Answers to complaints, defendant may file 317
Answers to complaints, form of 327
"Application" defined 313

APPLICATIONS—
- General matters applicable to all 320
- Contents of 320
- Formal, form of 325
- For switch connections, spurs and extensions 319
- For abolition of, alteration of, and construction of railroad crossings 320
- For new construction or extensions 319
- For safety devices at crossings 321
- For increase in charges 322
- For orders of reparation 322
- For extensions of time to file reports or statements and comply with orders 323
- Miscellaneous 323
- Procedure of Commission on filing of 320

Briefs, Commission may request 318

Charges, applications for permission to make increases in 322
"Commission" defined 313
Communications to Commission 314
"Complaint" defined 313

COMPLAINTS—
- Who may complain 315
- Contents of 315
- Signature of 316
- Copies of, to accompany complaint 316
- Procedure of Commission, on filing of 316
- Satisfaction of 317
- Answer to 317
- Formal, form of 324

Construction—new, or extensions, application for 319

CROSSINGS—RAILROADS— Page
Abolition of, applications for ... 320
Alteration of, applications for ... 320
Construction of, applications for ... 320
Safety devices at, applications for ... 321

Deviations from rules, authorizations for ... 323
Documents, filed with applications ... 320
Documents to be uniform in size ... 314

EXTENSIONS—
Or new construction, applications for ... 319
Of time to file reports, applications for ... 323
Of time to file statements, applications for ... 323
Of time to comply with Commission's orders, applications for ... 323

Formal applications, form of ... 325
Formal complaints, form of ... 324
"Formal proceeding" definition of ... 313

HEARINGS AND REHEARINGS—
When hearings will be given ... 317
Notice of place of hearings ... 317
Stipulation as to facts ... 318
Procedure at hearings ... 318
Adjournments of ... 318
Briefs ... 318
Investigations on Commission's own motion ... 318
Rehearings ... 319

Hours of Commission ... 313

Intervention, in proceedings ... 315
Investigations on Commission's own motion ... 318

Meetings of Commission ... 313

New construction or extensions, applications for ... 319
Notice of hearing on complaint, form of ... 327
Number given to each proceeding ... 314

Office of Commission ... 314
Order to answer, form of ... 326
Order to satisfy, form of ... 326
Orders, Filing or entry of and service of ... 315
Orders of Commission, applications for extensions of time to comply with ... 233

Pleadings, may be amended ... 314
Procedure of Commission, on filing of petitions ... 316, 320
Property, of public utilities, valuation of, by Commission ... 319
"Public Utility" defined ... 313
Public Utilities, valuation of property of, by Commission ... 319
Published notice of hearing on complaint, form of ... 328

RAILROAD CROSSINGS— Page
Abolition of, applications for ... 320
Alterations of, applications for ... 320
Construction of, applications for ... 320
Safety devices at, applications for ... 321
Rates, increases in, applications for ... 322
Rehearings, See Hearings.
Reparation, applications for orders of ... 322
Reports, applications for extensions of time to file ... 323
RULES—
Amendments of ... 324
Deviations from ... 323
Safety devices at railroad crossings, applications for ... 321
Secretary to furnish information ... 314
SERVICE—
Personal ... 314
By registered mail ... 314
Upon attorney ... 314
SESSION OF COMMISSION—
Open to public ... 313
When held ... 313
May be held—where ... 313
Spurs and switch connections, applications for ... 319
Information required with ... 319
Maps required with ... 319
Statements, applications for extensions of time to file ... 323
Stipulations as to facts ... 318
Subpoenas, Commission may issue, for production of records ... 314
Switch connections and spurs, applications for ... 319
Information required with ... 319
Maps required with ... 319
Utilities, public, valuation of property of, by Commission ... 319
Valuation of property of public utilities by Commission ... 319